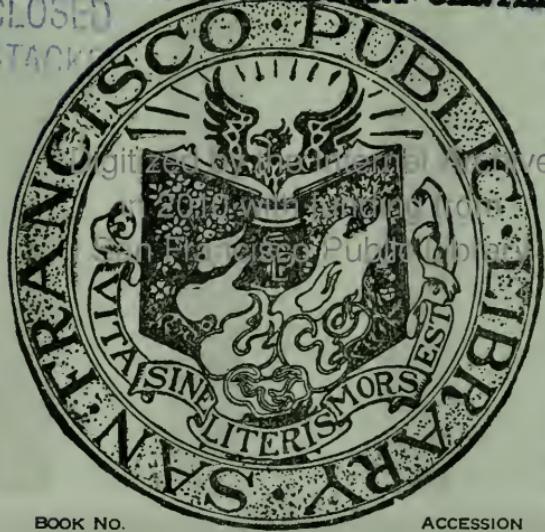




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# REGULATION OF WATER RATES

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## PROCEEDINGS

BEFORE THE

# BOARD OF SUPERVISORS

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1880.

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PROCEEDINGS  
BEFORE THE WATER COMMITTEE  
OF THE  
**BOARD OF SUPERVISORS,**

*CITY AND COUNTY OF SAN FRANCISCO,*

Concerning the fixing of rates of the Spring  
Valley Water Works.



*To the Honorable the Board of Supervisors of the City and  
County of San Francisco:*

GENTLEMEN:—I am glad to avail myself of the opportunity which your open sessions offer, not only to give you full information of the resources of the Spring Valley Water Company, its sources of supply, ability to meet the wants of the city, the value and cost of its works, the income which it receives, and the principle upon which its rates are adjusted; but also to correct many misapprehensions which exist in the public mind with reference to the above matters, and which a thorough investigation of the water question will, I think, largely remove.

## CHARTER OF SPRING VALLEY WATER COMPANY.

The Spring Valley Water Company was incorporated under the laws of 1853 and 1858 with reference to water companies, and was the assignee of the privileges enjoyed by George H. Ensign and his associates, under an act passed April 23, 1858, which authorized George H. Ensign and others (owners of the Spring Valley Water Works) to lay down water pipes in the City and County of San Francisco.

This act provides that the rates to be charged for water should be fixed by five commissioners, two of whom should be appointed by the Board of Supervisors, two by the water company, and the four to choose a fifth. The act also provided that the rates so established should not be so low as to yield less than twenty per cent. per annum on the cost of the works. It is true that this act was afterward declared unconstitutional, but I refer to its provisions to show what was then considered a reasonable reward to owners of water works for expenditures made and risks incurred in the construction of such works.

This act having been adjudged unconstitutional in 1874, the Spring Valley Company was obliged to look to the General Laws of 1853 and 1858 as the measure of its rights and duties. The law of 1858 also provided that the rates to be charged for water should be determined by a board of commissioners, to be selected, two by the city, two by the water company, and in case of disagreement, the fifth commissioner to be selected by the four. This provision was a fair one, for it left the rates to be fixed by arbitration between the city and the company. No action was taken, either by the city or company, to appoint commissioners until 1877, when a board of

commissioners was appointed, as provided by law, which reduced the water rates ten per cent. Their action caused a reduction of the dividends of this company on its capital stock of eight millions, from nine per cent. to eight per cent., and resulted in giving to the company an income barely sufficient to pay its running expenses, the interest on its indebtedness, and dividends to its stockholders, leaving little or nothing for a surplus fund for future improvements, and nothing for a sinking fund to meet its indebtedness.

It was hoped that this action would meet the approval of the community, quiet agitation on the water question, and give the company an opportunity to borrow money at low rates of interest, and thereby enable it to reduce its rates to the consumer. But the subject was too fruitful of agitation, and the result is that by the provisions of the new constitution the power to fix the reward to be given to this company for the expenditures made and risks incurred in its enterprise has been given absolutely to the very parties interested in making that reward as small as possible, viz: the consumers themselves, through the Board of Supervisors, who are their political representatives. The extent of this power is perhaps little understood. It practically makes the will of the buyer supreme as to the price to be paid. It would be regarded as an anomaly in business life if the man who buys should have the power to fix the price which he is to pay—that the purchaser of iron should have the power to fix arbitrarily its price per pound; that the laborer should furnish his labor and receive only that which his employer is willing to give—in other words, that the price of the commodity, in the one case, and the labor, in the other, should be absolutely in the control of but one party to the transaction, and that party not the one that furnishes the desired commodity or labor, but the one that

requires it. Yet this is the extraordinary power vested in your honorable body over the compensation of this company—a power which involves the control of all the other powers of this corporation, which has existed for years, and which has expended millions of dollars in its enterprise; for as this company was formed for gain, the power to limit its income necessarily includes the control of all its other powers, just as the greater includes the less.

#### REGULATION UNDER THE NEW CONSTITUTION.

The New Constitution put the rates entirely under the control of the consumers, and the effect of this was, that at the last municipal election each of the three political parties then in the field offered the property of this company to the lowest bidder. By reference to the platforms of the various parties, it will be seen that their representatives were directly or inferentially pledged to a reduction of from twenty-five to twenty per cent. upon the present rates. It would be regarded as a shameful thing to pledge a judge to render a certain judgment. I refrain from comment upon the action of these political parties, which call upon their representatives, who act in this matter judicially, to render a preordained judgment in relation to the value and income of this company, without any knowledge of the facts, the amount of money expended in the enterprise, or the risk incurred.

#### THE EFFECT OF THE ABUSE OF POWER.

The Supervisors, then, stand as the representatives, not only of the consumers, but of the city, and they are to determine the income of the Spring Valley Water Works.

If the pledges set out in the political platforms of various parties are to be observed, the net income of this company will be reduced nearly one-half; and the effect on the stock will be a reduction from nearly par to forty or forty-five dollars per share. In a word, by a stroke of the pen, between three and four million dollars of values, held by citizens of this community, will be stricken out.

But I will do more than make a general assertion. I understand that the Republican platform favors a reduction of twenty per cent. on the existing rates. Mr. Stetson has introduced a resolution which is in excess of the demands of either party, and if it prevails, disaster will necessarily follow. The income of the company, for the year ending June 1, 1879, was \$1,258,000. The sum was almost entirely expended as follows:

Operating expenses.....	\$300,000
Interest on debt of about \$4,000,000.....	287,000
Dividend on capital stock, \$8,000,000 at 8 per cent. per annum.....	640,000
<hr/>	
Total.....	\$1,227,000

If the income of the company should be reduced twenty per cent., its total income would be about \$1,000,000.

Assuming that the operating expenses and interest during the coming year will be the same as during the last, this sum would be expended as follows?

Operating expenses.....	\$300,000
Interest on debt of about \$4,000,000.....	287,000
Dividend on capital stock, \$8,000,000 at 5 per cent. per annum.....	400,000
<hr/>	
Total.....	\$987,000

In other words, this would leave almost nothing for future improvements, or for a sinking fund to meet the indebtedness, and would reduce the dividends from eight to five per cent.

The value of the stock would instantly fall from its present value to forty or forty-five dollars per share. Such a sweeping reduction this year would be regarded as a prophecy of a further reduction in the future, and would produce a feeling of great insecurity among stockholders. I call these facts to your attention for the reason that I assume that they were not known when the political platform in question was adopted. I feel assured that you will not deem yourselves bound to do a great and lasting injustice in order to comply with the provision of a platform which was probably inserted as a mere device to catch votes, without any responsibility on the part of those who framed it, and without knowledge upon which to base it. Taking it for granted that you intend to act justly as between this company and the consumers, and that you are not disposed to take away from the company its just dues in order to be liberal to the rate-payers, I will not dwell longer upon this matter. Permit me to add a few words, however, as to the nature and extent of this enterprise, its cost, the income that is required to meet its demands and contemplated improvements.

THE SPRING VALLEY WATER COMPANY.

The Spring Valley Water Company has been in existence for more than twenty years. The moneys expended in the construction and maintenance of its works are far in excess

of the sum upon which it at present receives an income. It has not received a dollar of subsidy. No gift whatever has been made to it by the public. It owns, by an absolute title, 18,000 acres of land, in connection with its works, and a large amount of real estate in San Francisco, used for reservoirs and other purposes. The property which it holds is vested in it by a fee-simple title, with the exception of a few acres in San Mateo County, which it obtained by judgment in condemnation proceedings.

It is true the right has been given it to lay its pipes in the streets of San Francisco, but this is as much for the benefit of the consumers as the company. It was no exclusive privilege for any other water company has had and could have exercised the same right. It involved the city in no expense, for wherever the water company had laid down its pipes it was obliged to repair the streets at its own cost.

#### WHY THE PRESENT RATES ARE CHARGED.

Previous to the adoption of the new Constitution, the system of collecting the income of water companies was unequal, under the law, for whilst the larger portion of the outlay was for the purpose of supplying the city with water for protection against fires, cleansing sewers, and watering streets, yet this company was obliged, by its charter, to collect its entire income from the householders and rate-payers only. This has occasioned the controversy between the city and the company, and has been the cause of the excessive rates.

In other cities, the water works are generally owned and controlled by the municipalities, and the income necessary to

pay the interest on the indebtedness incurred in the construction and the running expenses, and to form a fund for future improvements, is, in the main, collected by taxes on the general property, and by licenses on general occupations and business. Thus the burden falls very lightly on the rate-payers. Here, however, the whole income of the company has been collected from rate-payers. The fault of the system was in the law itself, yet the public has been impressed with the idea that the excessive rates arose from the extortion of the company.

The Spring Valley Water Company is content with a fair income upon its investment. It has never sought more. It seeks no more now. So long as that income was secure, and the public were contented with the system of distribution of rates, the company had no reason to complain, but when the cry is raised that the rates are excessive, that the Spring Valley Company discriminates as between rate-payers, then it becomes the privilege of the company to call the attention of the public to the real cause of the excessive rates, and to the greatest discrimination and inequality of all, namely: that between the great consumer, the city, on the one side, and the 18,000 rate-payers on the other.

#### VALUE OF SPRING VALLEY PROPERTY.

The value of the Spring Valley Water Works can only be ascertained by comparison with the cost of other schemes. As there are no other water works in existence capable of supplying San Francisco, the only mode of determining the value of the Spring Valley Water Works is by ascertaining

for what sum an equal supply can be obtained from some other source. This whole matter has been thoroughly investigated by the Water Commissioners, and by the able engineers appointed by them during the last few years; and it is safe to say that no water works can be obtained, or constructed, of a capacity equal to that of the Spring Valley scheme, for a less expenditure than twice its cost. But the objection is made to this mode of computation, that Spring Valley has prevented all competition, by obtaining all the available sources of supply within a reasonable distance of San Francisco. In reply, I would say that the company would have met with deserved criticism had it failed, in the exercise of an intelligent foresight as to the future wants of this city, to have purchased property necessary to its scheme.

It is a singular proposition that all other property in San Francisco should increase in value with the growth of the population, whilst the Spring Valley property is denied any increase whatever. The promoters of this scheme invested their money just as other people in San Francisco did in real estate, upon the faith of a large city being built up on this peninsula. They risked their money upon the enterprise, and had the city failed to develop, as it was once feared it would (during the Fraser River excitement), the property of the company would have been almost valueless. All property is valuable only in connection with the uses to which it is put. A lot may be valueless as a residence and yet valuable for business purposes. A lot which affords accommodations for a wharf may be more valuable than one which immediately adjoins it without any water facilities. So the property of the Spring Valley Company has an increased value in connection with the uses to which it is put. It consists of immense tracts of real estate upon which artificial

lakes have been constructed, in which are stored waters collected upon the lands of the company. To say that these lands and artificial lakes have not a value commensurate with the enterprise displayed in their purchase and construction, their adaptability to the end desired, the growth of the city and the future wants of the community, is to strike out all the elements which constitute value in any business community, and to do away with all business-like modes of computing values.

As to the cost of the Spring Valley Water Works, I have to say that it has been estimated by experts and competent book-keepers, and has been fixed at a sum far in excess of the amount upon which the company at present realizes an income.

#### MR. SCHOTTLER'S RESOLUTIONS.

Permit me to say a few words with reference to the resolutions recently introduced by Mr. Schottler. They contain a recital to the effect that the Spring Valley Water Works were offered to the Water Commissioners for \$11,800,000, and conclude with a resolution to the effect that the income of the company should be limited to seven per cent. upon this valuation.

As to the assertion that "Spring Valley Water Works were offered to the Water Commissioners for \$11,800,000," I have to say that the lowest offer ever made or authorized by this company was \$13,500,000, and no lower valuation has ever been placed by the company on its works.

As to the income, Mr. Schottler doubtless lost view entirely of the operating expenses of the company, for an ordinance

passed in accordance with his resolutions would give the company only seven per cent. on \$11,800,000, or an income of \$826,000 a year. This would not much more than suffice to pay the running expenses of the company and the interest on its indebtedness. But even were operating expenses to the extent of \$300,000 a year provided for in the ordinance that income would not be sufficient.

If the principle is to be adopted that this company is to be limited to an income on the cost of its works plus the running expenses, then I have to say that a fair rate of interest upon the cost of the works should not be less than nine per cent. Money is worth what it will bring in the market. The Spring Valley Company is at present paying upon a portion of its indebtedness nine per cent., upon another portion seven per cent., and upon another portion six per cent. The bonds which have been sold bearing six per cent. interest run for a period of twenty-five years from their sale, and were sold at a discount of twelve and one-half per cent. Scattering this over a period of twenty-five years, and bearing in mind the fact that it is paid in advance, makes the real interest on this portion of the indebtedness over seven per cent. per annum. The bondholders have the first mortgage upon the property. Their claims to the extent of \$4,000,000 are to be satisfied before the stockholders receive anything. They take, therefore, much less risk, and can afford to let their money at a less rate of interest than the stockholder. It would be the height of injustice to allow the stockholder, who stands all the risk of the enterprise, to receive only a rate of interest equal to that of the bondholder, and I claim that two per cent. advance is only a fair and reasonable allowance.

## THE INJURIOUS RESULT OF THE WATER AGITATION.

Let me add here that the agitation of this water question during the past four or five years is producing an injury to the community as well as to the company. The city is interested in the extension of the Spring Valley Water Works to meet its growing wants. In order to make the improvements that have been required, the company has been obliged to borrow money. It recently, with the view of taking up indebtedness about to become due, negotiated its bonds to the extent of \$4,000,000, upon which it was obliged to submit to a discount of twelve and one-half per cent. This was due entirely to the feeling of insecurity occasioned by the agitation of the water question. Capitalists were unwilling to loan their money to a corporation whose rates were at any time likely to be regulated to the point of confiscation. The bonds could not be negotiated in San Francisco at all, and were finally put upon the market in New York with the above result.

Agitation makes it difficult for the company to obtain money with which to meet the needed improvements. It increases rates of interest and subjects the company to loss in many ways. Such loss must eventually fall upon the consumer, for the cost of water to the consumer must increase just in proportion as the extension, improvement, and operation of the water works are made more expensive to the company. If matters were entirely settled between the community and this company, money could be procured for a much less rate of interest, and thus the rates to consumers be gradually diminished.

This agitation produces another injury to the company and to the community, and that is, that it forces the company into comparative inactivity with reference to needed improvements. For instance, the company has gone to great expense in constructing an immense artificial lake, called the "Crystal Springs Reservoir." It is now full, and contains 4,000,000,000 gallons of water. None of the water from this lake is at present used, for the reason that it is not connected with the city by a pipe-line. An expenditure of seven or eight hundred thousand dollars would conduct the water into this city, it would bring into employment a large number of men, and thus, for a comparatively trifling cost, amounting annually to between sixty and seventy thousand dollars, in the way of interest, the supply of the city would be almost doubled.

How can this company be expected to mortgage its property for an additional sum of seven or eight hundred thousand dollars, paying an interest thereon of six per cent. per annum, and submit even then to a discount in advance, which really raises the rate of interest to over seven per cent., when the interest on its investment is in danger of being so regulated that the company will receive less than it pays? What stimulus is there for enterprise, if the company is to receive only that rate of interest which it pays? The stockholders of private corporations do not conduct public works as public benefactors. Their object is to make money; and if they are deprived of profit, all stimulus to exertion falls to the ground.

In conclusion, permit me to say, that it is time that this agitation was ended. It is for the interest of both the company and the community that there should be peace. The company has been obliged, in years past, to oppose many op-

pressive bills in the Legislature, which looked to an undue regulation and the confiscation of its property. The company owns its lands and property by as absolute a title as can be held, and has been, and is determined to maintain and protect its rights of property as fully as any individual might do under similar circumstances. It is desirous, however, of meeting the community upon some just basis, and is glad of the opportunity now offered to correct, by a public investigation, many misapprehensions which exist in the public mind. All the company asks is a just valuation of its works, the allowance of a fair and reasonable rate of interest thereon—not less than eight or nine per cent.—its operating expenses, and a reasonable rate of interest on moneys expended in the future for construction. If the company is guaranteed just treatment it will go on with improvements, which are necessary to the future growth of the city; and, as the company will be compelled to expend but a comparatively small sum of money within the next ten years for construction, the increase in the number of consumers, and a more equal apportionment of rates, as between the city and the consumers, will gradually bring about diminished rates to the rate-payer.

Yours, very respectfully,

CHARLES WEBB HOWARD,

Pres't S. V. W. W.

SAN FRANCISCO, Feb. 25, 1880.

—o—

*To His Honor the Mayor and the Honorable Board of Supervisors of San Francisco :*

GENTLEMEN:—I take the liberty of calling the attention of your honorable body to the propriety and necessity of the Spring Valley Water Works taking steps, in the near future, to complete the Crystal Springs scheme in the manner contemplated. The work proposed is as follows:

1. To finish the Crystal Springs dam to its contemplated height.
2. To construct a substantial waste weir.
3. To construct a conduit from this reservoir to San Francisco.
4. To construct a distributing reservoir at the end or outlet of this conduit in San Francisco.
5. To connect this reservoir by a large iron main pipe with the pipe-system of San Francisco.

Heretofore the policy of the Spring Valley Water Works has always been not only to try and have an abundant supply of water on hand in the peninsular and city reservoirs, but also to have the pipe-lines leading the water from each respective reservoir into San Francisco of a capacity larger than the largest daily demand.

In spite of our efforts to decrease the waste of water in San Francisco, yet the demand for water had again so increased in the Summer and Fall of 1879, that on many occasions the pipe leading from San Andreas Reservoir, which supplies about two-thirds of the city, was taxed to its utmost capacity, sometimes for over two weeks successively, espec-

ially as we endeavored always to keep a good supply of water on hand in the respective city distributing reservoirs, for fire and supply purposes. Yet this excessive demand for water caused a general lack of pressure through the entire lower and business portion of the city.

The large main along Valencia and Market streets, being the main artery of the distributing system of the San Andreas water, is, during such times of extraordinary demand, taxed to such an extent, that, although if even the College Hill Reservoir, from which it issues, were full, yet the pressure in the business portion of the city is materially reduced in the daytime. This excessive demand, occurring always in the dry season, and often during the period when high winds prevail, a conflagration oceuring at such a time, and when the water pressure is materially reduced, might soon assume dimensions beyond the control of our Fire Department.

If it was simply a question of supplying water for domestic purposes only, and for fire and municipal purposes to the *extent of our means*, there would be no necessity for me to urge, nor for the Spring Valley Water Works to eontemplate, the extension of our works for many years to come; should, therefore, during such a period of great demand, the pressure be so reduced that the water would not flow into the tanks on the tops of the houses, the consumers would have to be content to draw it at a lower story; while the Fire Department would have to take it under such a pressure as that to which the excessive draft of the consumers had reduced it.

Although this company has not received a dollar for water furnished for fire purposes, yet a large portion of its expenditures has been incurred in order to securé this city from any serious conflagration. I defy anybody to point out a water works in the United States that has better, more central, or

higher reservoir locations, and that has more effectually and promptly extinguished fires and prevented their spreading during the past fifteen years.

At the same time, you are aware that in some parts of our city, and especially in portions of the district south of Market street, parts of the pipe-system, although sufficient for domestic purposes, should be improved for fire purposes. This improvement is contemplated in the completion of the Crystal Springs scheme, as herein recommended.

Up to date we have already expended at Crystal Springs a large sum of money for lands, rights, and works. The dam is built to a height of about fifty feet, forming a reservoir of a capacity of 3,830,000,000 gallons. The lake being full, it overflows through the waste weir during the rainy season, the water running to waste into the bay. The pumping works erected at Crystal Springs during the drought of 1877 can pump 3,000,000 gallons daily, but at great expense, as fire-wood is getting scarcer and dearer in the neighborhood, and coal requires transportation by rail or team *via* San Mateo and over a toll-road. At the same time, in order to utilize these pumping works during such period of excessive demand, we are compelled to pump the water from the level of the pumps to an elevation of 635 feet above tide, run it into San Francisco through the Upper or Pilarcitos pipe-line, and, after arriving in San Francisco, drop it down into the San Andreas supply district, which lies at and covers the lowest but most valuable portion of San Francisco. In order, therefore, to stop this costly up-hill work, and to properly utilize the water annually collected and stored in the Cyrstal Springs Reservoir, and particularly to secure a more abundant supply for fire purposes, as detailed above, I have strongly recommended to the Spring Valley Water Works to complete

the Crystal Springs dam to its contemplated height of seventy-five feet; build a substantial waste weir to carry off the freshet waters when the lake is full; construct a substantial wrought-iron pipe, forty inches in diameter and about twenty-one miles in length, from Crystal Springs into San Francisco, having a daily delivering capacity of nearly 12,000,000 gallons; construct a large distributing reservoir in the southern part of San Francisco, and at the end of this forty-inch pipe; lay from this reservoir and along Folsom street, to or toward the city front, a twenty-four-inch iron main pipe, to which all pipes running across the entire length of Folsom street would be connected, as well as the parallel pipes, thereby securing the district east of Valencia and south of Market street a complete supply, and good pressure, and thorough circulation; the proposed twenty-four-inch Folsom Street main forming the main artery of this entire district.

The duty of the San Andreas water would thereby be reduced from its present excessive area to a comparatively narrow strip, including Market street and the lower or flat area west of Valencia and north of Market street; while Pilarcitos water and that from Lobos Creek would take care of the hills and higher parts of the city.

The cost of the works herein proposed I estimate as follows:

Completing Crystal Springs dam, inclusive of waste weir.....	\$70,000
Twenty-one miles of 40-inch pipe, complete in the ground.....	600,000
Reservoir in San Francisco, of a capacity of fifty mill- ion gallons, inclusive of land.....	110,000
Four miles of 24-inch pipe main on Folsom street, complete in the ground and connected.....	170,000
Replacing small mains by larger ones in this district, to improve pressure and circulation.....	50,000
Total cost.....	\$1,000,000

I also propose to connect the large twenty-two-inch main pipe on Valencia and Market streets, which will be the main artery of the middle city supply, with this lower or Crystal Springs system, and also the twenty-two-inch main pipe from Lake Honda, forming the main artery of the upper city supply, with the twenty-two-inch main on Valencia and Market streets. These respective connection gates between the upper and middle city supplies, and between the middle and lower city supplies, being kept shut ordinarily, could be instantly opened in case the supply in any one of the other districts should become weak and the pressure low during an extensive conflagration, which would bring the entire supply stored in the next higher district to the assistance of the one requiring it.

The following table shows our reservoirs in San Francisco, their elevation above city base, and their contents, Nos. 1, 2, 3, 4, 5, and 7 being the reservoirs completed and in operation, while No. 6 represents the one herein proposed, to complete the entire scheme:

(A) UPPER CITY SUPPLY.

Name.	Elevation.	Capacity.
1. Lake Honda.....	337 feet.....	32,918,000 gallons.
2. Upper Russian Hill....	306 " .....	3,724,000 "
3. Clay Street Hill.....	375 " .....	141,000 "
Upper City Supply Storage.....		<u>36,783,000</u> gallons.

(B) MIDDLE CITY SUPPLY.

4. College Hill.....	252 feet.....	15,006,000 gallons.
5. Market St. Reservoir...	196 " .....	2,250,000 "
Middle City Supply Storage.....		<u>17,256,000</u> gallons.

(C) LOWER CITY SUPPLY.

6. Petrero Reservoir.....	170 feet.....	50,000,000 gal'ons.
7. Lower Russian Hill....	139 " .....	6,712,000 "
Lower City Supply Storage .....		<u>56,712,000</u> gallons.
Total Capacity of all seven reservoirs in		.
San Francisco.....		110,751,000 gallons.

By thus dividing the city into three districts, viz., the upper, middle and lower districts, we apportion the city more appropriately than we have been able to do heretofore, without the introduction of the Crystal Springs water.

The upper district uses about one-third, the new middle district would use about one-sixth, and the new lower district about one-half of all the water consumed in the city. As, with the above disposition of the city reservoirs, the upper district would have about 36,500,000 gallons storage, the middle district about 17,000,000, and the lower district about 56,500,000 gallons in their respective city reservoirs, these storage capacities are very nearly in proportion to the water used in the respective districts.

In addition to these extraordinary facilities for extinguishing fires, I wish to call the attention of your honorable body to the facilities which we would have for sending an additional supply into this city in case of or during any extensive conflagration.

All our works being connected by telegraph with each other and with the city, we could constantly order the following heads of water turned on:

	Gallons Daily.
From Pilarcitos.....	11,000,000
From San Andreas.....	9,500,000
From Crystal Springs.....	12,000,000
From Lake Merced.....	7,000,000
From Lobos Creek.....	2,000,000
Making a daily total of.....	41,500,000

Which could be turned into the city reservoirs during such a calamity to assist the amount of 110,000,000 gallons kept on hand in the city reservoirs.

Upon this showing I venture to say, and I have no doubt that your honorable body, as well as the Fire Department

and the Board of Underwriters, will agree with me, that our city will have the best system of fire protection in the world, as it has now one of the best in the United States.

The question now is: Who is to pay for all this? Shall the Spring Valley Water Works incur an additional indebtedness of another million dollars, which would swell their debt to five million dollars, where I maintain, and am ready to prove, that two of these five millions are and will be owing to the endeavor of the company to give the city an almost absolute protection against fires? And yet they not only receive no compensation for all this extra work and outlay, but they are threatened, in the bargain, to have their income so cut down that not only the many stockholders, who have invested their money in good faith in the stock, will meet with a heavy and entirely unwarranted loss, but also will all future work have to stop short; and although our city will keep on growing, the water supply will have to remain at a standstill.

The question, whether the consumer shall bear the burden of this tax, is very easily answered by saying that he is already overburdened, and instead of being taxed with the entire expenditure necessary for watering parks, streets, public buildings, and above all, protecting \$100,000,000 worth of insurable property against fire, as he has had to do heretofore, and is doing to-day, the consumer should be relieved by reducing his rate; while the owners of the \$100,000,000 worth of insurable property, whose rates are reduced *at least* one per cent. annually on account of our effective fire protection, or in an aggregate at least \$1,000,000 per annum, can well afford to contribute, say, one-quarter of this reduction, or say \$250,000, annually toward the relief of the rate-payer.

Should this amount of \$250,000 annually be taken out of the general fund, it would only amount to ten cents on every \$100 of the total tax value of San Francisco of \$250,000,000, and would therefore fall very lightly on the parties most benefited. The most suitable way of assessing this annual amount would be by charging a certain rate for each hydrant, not only for the water used out of the same, but also for the general protection an effective water supply gives to the property in the city. This same course is adopted in many of the Eastern cities, and has been settled upon as the most satisfactory plan for adjusting the price paid by the community for the protection against fires.

Of the above estimate of the cost of the proposed Crystal Springs works, or the lower city supply, of \$1,000,000, about \$425,000 would go East for iron and rivets, while the balance of \$575,000 would be expended here, mostly for labor. This sum expended among our deserving white laboring men and mechanics, at a time when labor is so scarce and yet so many willing hands are idle, would largely relieve the present distress.

In the above I have tried to explain the intimate connection existing between the welfare of the city and that of the water company. In my opinion your honorable body should treat the Spring Valley Water Works, watch over its welfare, and foster its prosperity and development, just in the same manner as if the works actually belonged to the city, as the proposed destruction of the company's credit, home and abroad, will naturally be followed by the immediate abandonment of any and all future improvements. Any inequitable and unjust action on the part of your honorable body in this matter would naturally be first felt by the stockholders of the company, a large majority of whom are comparatively poor

citizens of this community; but the effect of such action would in due time rebound with severity against the citizens at large, when they see this fair city in ashes.

Most respectfully,

H. SHUSSLER,

Chief Engineer Spring Valley Water Works.

SAN FRANCISCO, February 25, 1880.

—o—

*Charles A. Bayley, Esq., Chairman Committee on Water and Water Supplies;*

SIR:—In reply to your remarks made at the last committee meeting that no definite statement had yet been made by the Spring Valley Water Works as to the value of its works and the interest which it expected to receive upon such value, I have to say that the Company, though legally and equitably entitled to a fair income upon a just valuation of its property does not expect it at present. It does not receive such an income now, and the existing rates will not secure such an income until the number of consumers shall have been largely increased by the growth of the city.

If the rule which is applied by every business man to the valuation of his own property is to be applied to the property of this Company—namely: what it would cost to obtain an equal supply of water from some other source—the value of the Spring Valley Water Works is not less than thirty million dollars.

If the value of the works is to be determined by their cost, I have to say that the cost is \$17,626,000, as is clearly shown by an investigation made by John F. Pope, Esq., a professional expert, who has been engaged upon the Company's books for the past two months. At this cost the Company has acquired resources which by an additional expenditure of \$13,500,000 can be developed so as to amply supply three million inhabitants. To obtain a like supply New York City, having expended already \$40,000,000, will be obliged to make a further outlay of at least \$14,000,000, or a total of \$54,000,000, to obtain that which we can acquire for \$30,000,000.

It is true that in 1877 the Company proposed to accept from the city for its property and works the sum of \$13,250,000. That proposition was not based on the Company's estimate of their value, nor was the sum named at all commensurate with the real value, but it was founded upon the Company's preferring to consent to sell on terms involving a loss rather than risk the result of hostility or competition by the city, which might seriously cripple it. It may be as well to remind the committee that a price set upon property when its future was imperilled, by circumstances not necessary to be reviewed here, is something very different from a fair and just valuation of the same property sought to be arrived at for the purpose of establishing by law the revenue of the company.

Since that time the Company has expended in improvements \$500,000.

We have, then, three measures by which to make a valuation of the Spring Valley Water Works. First, what it would cost to furnish San Francisco with an equal supply of water from some other source, namely, \$30,000,000; second,

the cost of the Spring Valley Water Works, \$17,626,000; third, the amount for which the works were offered to the city in 1877, \$13,250,000, plus expenditures made since, \$500,000, total \$13,750,000. The last, as I have already stated, is not a fair basis for a valuation.

The income of this Company is at present \$1,258,000. Of this income \$300,000 has been expended in operating expenses, leaving \$958,000 as the net income of the Company, with which it pays the interest on its indebtedness of four millions, and a dividend of eight per cent to its stockholders. This net income is not a fair one upon a just valuation of the works. The public can not stand an increase of rates; the Company can not stand a diminution of income; the Company looks to an increase in the number of its consumers under existing rates for a fair income in the future. The only way the consumers rate can be diminished for the present is by having the city pay a just allowance to the Company for protection against fires and for water used for municipal purposes; that allowance to be credited upon existing rates to consumers. It is impossible to fix any valuation which will be serviceable at present in regulating the income of the Company, for the present rates do not give a fair rate of interest on a just valuation, and it is impossible to increase the income as I have already shown, except by providing that the city shall pay something in addition to the present rates. This the Company does not expect, for it proposes to stand by its assurance that the sums paid by the city shall be allowed *pro rata* to consumers upon existing rates. If, however, the city wishes now to determine for all time the principles by which the rates shall be regulated, viz: By fixing a valuation and determining the rates of interest to be allowed, not for the purpose of bringing the income of the Company up to that limit, but for the purpose

of establishing a limit of income beyond which, in the future, the Company shall not be allowed to go, under existing rates, we are willing to confer with the Board, and agree upon a just valuation. When the existing rates shall bring the income of the Company up to an amount sufficient to pay, in addition to operating expenses, nine per cent upon such agreed valuation and such additional expenditures as the Company may hereafter make in construction and extension of its works, then the rates can be diminished so as to prevent the income from increasing beyond such limit. In this way the rates to consumers can be reduced at once, by the city paying its just proportion, and in the near future the increase in the number of consumers will, after the limit of the Company's income has been reached, result in a further reduction of rates.

I have named nine per cent. as a fair rate of interest upon a just valuation for the reason that the business is a hazardous one. The regulation of rates does not guarantee to the Company any income, nor does it protect the Company from the competition of the city or of rival schemes. The Company is its own insurer. If one-half of the city were to be swept away to-day, it would lose one-half of its income. Pipe lines, aqueducts, or dams might give way, and the loss might be great. These are some of the hazards against which the Company can not insure, and concerning which the city gives no guarantee.

In conclusion, then, I will recapitulate and state what the Company would consider fair principles to be established in the regulation of rates. First, an authorization of the present rates, together with a fair allowance by the city for protection against fires and for water used for municipal purposes, which allowance should be credited upon the rates now charged to consumers *pro rata*. Second, as to the future, a determina-

tion of principles by which the income of the Company should be limited; namely, a just valuation of the works, and an allowance thereon and upon further expenditures in construction and extension of the works of nine per cent. in addition to the operating expenses. The foregoing limit being reached, the increase in the number of consumers to tend toward a diminution of rates instead of an increase of income.

Respectfully, yours,

CHARLES WEBB HOWARD,

Pres't S. V. W. W.

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SAN FRANCISCO, March, 1880.

*To the President of the Spring Valley Water Works:—*

DEAR SIR:—I herewith present to you a report of the work I have been called upon as an expert to attend to in the examination of the books and accounts of the Company, over which you preside

I commenced my labors on the 3d of February of the current year, and as you refrained from giving me any but the general instruction, viz.: That of ascertaining what had been the cost to the Company of the works, and properties connected therewith, owned by them, leaving entirely to myself the method of ascertaining that cost, I have been compelled to exercise the best of my judgment as to the method by which I could secure the desired result.

The labor necessarily involved has been very arduous, compelling me to examine the books and accounts of the San

Francisco City Water Works for the period of eight (8) years, and of the Spring Valley Water Works for twenty (20) years, thus covering a period equal to twenty-eight (28) years.

The principles by which I have been governed in my labors need to be enunciated here, so that you will see why I present the Exhibits in the various forms that accompany this.

The first question was at what rates should interest be calculated on the expenditures. The rates generally current in the early period of the existence of these two Companies were so far beyond those now current, that to make up the accounts at those rates, would swell the cost to an excessive amount. I ascertained the rates current at banks, which I found to have been as follows: From 1860 to 1866, 2 per cent. to  $1\frac{1}{2}$  per cent. per month; from 1866 to 1869,  $1\frac{1}{4}$  to 1 per cent. per month; since then at 10 per cent. per annum.

Again, I found that large sums had been paid by the Company as interest on loans, bonds and coupons, and the question then arose should these payments of interest be included in the cost of the Works.

This last question I have not taken upon myself to decide, but the Exhibits I present will cover the ground, and afford data from which a just conclusion can be drawn.

I have made up tabular statements that show the exact monthly expenditures for the separate classes of works constructed, and from these tables have ascertained the separate monthly expenditures covering the whole period of time—but I have not averaged the dates of such payments, as that would have necessarily caused long delay, so that I have calculated the interest from the end of each month for the expenditures of that month.

I give in the Exhibits the statement of all dividends as paid to the stockholders. On these dividends I have calcu-

lated the interest from the date they were declared (not paid) to the end of the current year, and then deducted the sum of dividends and interest from the accumulated interest, carrying forward at the end of each year the balance of interest as Interest Account, which you will note is made up at simple, not compound interest.

The Company has paid higher rates than those I<sup>o</sup> have calculated in the accounts, having paid 2 per cent.,  $1\frac{3}{4}$  per cent.,  $1\frac{1}{2}$  per cent.,  $1\frac{1}{4}$  per cent. and 1 per cent. per month, and 10 per cent. per annum.

With these explanatory remarks, I now call your attention to

#### EXHIBIT "A."

Expenditures, including interest on Loans, Bonds and Coupon Interest; also cost of San Francisco City Water Works, made up in same manner to February, 1865, the date of consolidation of the two Companies.

In the Exhibit the rates of interest are made up at  $1\frac{1}{2}$  per cent. per month to December 31, 1865; at 1 per cent. per month from December 31, 1865 to December 31, 1869, at 10 per cent. per annum from December 31, 1869 to December 31, 1879.

Deducting annually dividends and interest at same rates:

Expenditures . . . . .	\$15,031,076 06
Interest . . . . .	6,770,100 13
Total. . . . .	\$21,801,176 19

## EXHIBIT "B."

Expenditures, including interest on Bonds, Loans and Coupon Interest, also cost of San Francisco City Water Works in same manner to February, 1865, date of consolidation.

Interest at 10 per cent. per annum.

Deducting annually dividends and interest at same rate:

Expenditures.....	\$15,031,076 06
Interest.....	5,603,576 43
Total.....	\$20,634,652 49

## EXHIBIT "C."

Expenditures, excluding interest on Loans, Bonds and Coupon Interest, including cost of San Francisco City Water Works, made up in same manner, at date of consolidation; interest at  $1\frac{1}{2}$  per cent. per month to December 31, 1865.

Interest at 1 per cent. per month from December 31, 1865, to December 31, 1869.

Interest at 10 per cent. per annum from December 31, 1869, to December 31, 1879.

Deducting annually dividends and interest at same rate:

Expenditures.....	\$13,168,693 27
Interest.....	5,671,509 10
Total.....	\$18,840,202 37

## EXHIBIT "D."

Expenditures, excluding interest paid on Loans, Bonds and Coupons.

Including the cost of San Francisco City Water Works, made up in same manner to February, 1865, date of consolidation.

Interest at 10 per cent. per annum.

Deducting annually dividends and interest at same rate:

Expenditures.....	\$13,168,693 27
Interest.....	4,504,879 70
Total.....	<hr/> \$17,673,572 97

These exhibits may be regarded as substantially correct, as the calculations and entire work have been corrected and verified by my two assistants.

In reply to the inquiry whether the different increases of the capital stock of the Company have conformed to the amount of the expenditures, I have to report:

That the San Francisco City Water Works was organized August, 1857, with a capital stock of \$1,500,000, which was increased June, 1864, to \$2,000,000. At that date the expenditures of this Company amounted, with interest, to \$1,740,060 90, no dividends having been declared to this time.

At the date of consolidation with the Spring Valley Water Works in February, 1865, after deduction of all dividends declared, the expenditures, with accumulated interest, amounted to \$2,542,402 17.

The Spring Valley Water Works originally organized June 16th, 1858, with a capital of \$60,000, which was increased June 16th, 1860, to \$3,000,000.

February, 1865, the San Francisco City Water Works was consolidated with the Spring Valley Water Works, with a capital of \$6,000,000.

The entire expenditures of the two companies, including interest but deducting all dividends to date, with interest thereon, amounted to \$5,551,420 89.

March, 1868, increased to \$8,000,000. Expenditures at that date, with interest, less dividends and interest at same rate, amounted to \$7,969,710 39.

July, 1876, increased to \$16,000,000. Expenditures at that date, with interest, less dividends and interest, \$16,245,-659 30.

All of which is respectfully submitted.

JNO. F. POPE,  
Expert.

We, the undersigned, do hereby certify that we are practical book-keepers, and that we have assisted John F. Pope, Esq., in the examination of the books of the San Francisco City Water Works, and the Spring Valley Water Works, for the purpose of ascertaining their cost. We believe that the principles which have governed him in the ascertaining of the cost are correct, and we have verified all the calculations.

E. WORTH,  
O. C. POPE.

# STATEMENT

Showing the profits realized by different classes of Corporations, their Capital, Dividends, Accumulation, Par and Market values.

*Corporations in our own and other countries.*

## BANKS.

National Banks of the United States of America.

No. of Bank.	Capital.	Surplus.	Total Dividends.	Dividends. Per cent. to Capital Semi-annually.	Dividends per year.
Sept. 1872 1852	465,676,023	105,181,942	23,827,289	5 12-100 paid	10 19-100
" 1873 1955	488,100,951	118,113,848	24,823,029	5 09-100 "	10 31-100
" 1874 1971	489,938,284	128,364,039	21,929,307	5 19-100 "	9 90-100
" 1875 2047	497,864,833	134,123,649	24,317,785	4 88-100 "	9 89-100
" 1876 2081	500,482,271	132,251,078	22,563,829	4 50-100 "	9 32-100
" 1877 2072	486,324,860	121,349,254	22,117,116	4 54-100 "	8 93-100

Taken from the FINANCIAL REVIEW 1878.

The following statement shows the condition of some of the New York Banks, as copied from the New York JOURNAL OF COMMERCE, January 27, 1880.

BANK.	Capital.	Accumulat'd profits.	Par value.	Prices bid for Stock.
American Exchange.....	5,000,000	1,288,100	100	115
Broadway.....	1,000,000	1,215,100	100	218½
Chemical.....	300,000	3,261,000	100	1 675
City.....	1,000,000	1,410,300	100	200
First National.....	500,000	1,767,700	100	307½
Mechanics' .....	2,000,000	1,027,700	100	140
New York.....	2,000,000	715,500	100	140½
Union National.....	1,200,000	660,000	100	148

# INSURANCE COMPANIES.

## England.

COMPANIES.	Amount Paid per Share.	Amount added from profits.	Last Sales.
Commercial Union.....	£ 5		£ 20
Guardian.....	10	£40	68 10s
Imperial.....	10	15	152 10s
Liverpool and London....	2		15 11s
Norwich Union.. .....	12		106
Phœnix.....	20		310

### French Insurance Companies.

COMPANIES.	Amount paid per Share.	Last Sale.
La Caisse Generale.....	125 francs	750 francs
La Confiance.....	200 " "	1075 "

### New York Insurance Companies.

COMPANIES	Semi-annual Dividend.	Par value.	Sales.
Hanover.....	15 per cent.	\$50.00	\$150,00
Mechanics'.....	10 " "	50.00	175.00
Mechanics' and Traders'...	10 " "	25.00	184.00
Nassau.....	10 " "	50.00	160.00
Pacific.....	10 " "	25.00	202.00
Peter Cooper.....	10 " "	20.00	201.00

### Gas Companies, New York.

COMPANIES.	Par value.	Sales.
Manhattan.....	50	140
metropolitan .....	100	115

### Trust Companies.

COMPANIES.	Par value,	Sales.
New York Trust.....	100	365
United States.....	100	325
Farmers' Loan and Trust.....	25	210 20

### Insurance Companies in San Francisco.

NAME.		Capital.	Surplus.	Dividends Paid.
Firemen's Fund. ....	1874	300,000	59,949 48	63,272 17
" " .....	1875	300,000	49,800 15	62,699 34
" " .....	1876	300,000	125,122 94	62,307 89
" " .....	1877	300,000	150,680 97	66,768 00
" " .....	1878	300,000	174,844 63	65,822 00
" " .....	1879	300,000	153,172 13	60,518 49
Union.....	1874	750,000	104,137 08	173,520
" .....	1875		117,907 01	127,375
" .....	1876		152,629 70	157,325
" .....	1877		128,280 00	179,295
" .....	1878		113,759 88	165,573
" .....	1879		124,976 27	112,932
State Investment.....	1874	200,000	56,483 78	36,557 50
" " .....	1875		31,857 56	43,000 00
" " .....	1876		37,396 40	44,000 00
" " .....	1877		65,745 13	55,874 00
" " .....	1878		65,996 46	60,044 00
" " .....	1879		55,254 57	47,272 00

**Ferries.**

COMPANIES.	Capital.	Par value.	Bid.	
New York.....	1,000,000	100	150	
Union.....	1,000,000	100	125	

**Telephone Stock.**

COMPANIES.	Capital.	Par value.	Bid.	
American Speaking.....	300,000	100	575	
National Bell.....	1,000,000	100	800	
Bell Telephone, N. York.	100,000	50	375	

**Telegraph.**

COMPANIES.	Capital.	Par value.	Bid.	
Pacific and Atlantic.....	2,000,000	25	52	
Southern and Atlantic....	950,000	25	68	

**Safe Deposit Companies.**

COMPANIES.	Capital.	Par value.	Bid.	Dividends
Mercantile Safe Deposit..	300,000	100	150	1 % per m.
New York Safe Deposit..	600,000	25	120	

## PROCEEDINGS BEFORE THE WATER COMMITTEE.

EX-MAYOR BRYANT AND EX-CITY AND COUNTY ATTORNEY BURNETT PRESENT THEIR VIEWS BEFORE THE COMMITTEE.

FEBRUARY 20TH, 1880.

The Water Committee of the Board of Supervisors met and discussed the matter of fixing the water rates of the city. Ex-Mayor Bryant, ex-City and County Attorney Burnett and Mr. Hughes, the City Attorney of Oakland, were present by invitation of the committee.

Mr. Stetson stated that the committee had invited Messrs. Bryant and Burnett to be present, thinking that they might have information which would be valuable to the committee in relation to the water supply of the city. He further stated that during the month of February the committee were compelled, under the new Constitution, to fix the water rates to take effect July 1st, and that the compulsory provision gave no directions as to the manner in which it should be done. The question that arose was whether the committee should be guided by the cost of the works, or should they peremptorily say that the reduction should be so much upon the present rates collected.

Mr. Bayly—So far as I can understand, the company does not charge the full rates as fixed by the Commissioners in 1878. If we attempt to establish rates by reducing the percentage of the figures fixed by the Commission, we may not reduce them to the standard which they are now collecting under special rates. We must first ascertain the gross income and expenses of carrying on the works. Should we attempt to reduce the rates 25 per cent. and afterward discover that the company is not collecting within 40 per cent. of the rates fixed by that Commission, it would be apt to mislead the public.

Mr. Torry—My idea is that, instead of taking the measurement of a house or ground, the rates should be fixed upon the basis of the number of rooms in a house. In dwelling-houses charge so much per room—say 25 cents, which I think would be sufficient. Stores hotels, livery stables, restaurants could be charged by the gallon, to be measured by meter.

Mr. Doane—They charge \$5 for a meter.

Ex-Mayor Bryant—It is fair to presume that the water company is satisfied with the present rates and that they have those rates equally distributed. Now I think if you take off 10 per cent. it would be about fair. Ships pay \$5 per thousand gallons for water at the wharf and \$10 per thousand gallons in the stream, which seems to me a pretty heavy tax.

Mr. Bayly to Mr. Burnett—if a resolution was passed by the Board reducing the legal percentage under which they are now collecting, would that establish the old rates fixed by the Commissioners?

Mr. Burnett—The rate must be uniform. Under the new Constitution they can legally collect only by rates fixed before July. I think the company will sustain any order you may pass, unless you fix rates unreasonably low. Were it not for that Constitutional provision I should say that the order should stipulate that the rate must be so much in dollars and cents.

Mr. Torrey—I can see no better way than charging so much per room in a house, and an extra rate for gardens—say two or three cents per foot. In speaking of rooms I exclude bath-rooms, closets and halls.

### MR. STETSON'S SUGGESTION.

Mr. Stetson—I think the company in adopting their present rates have been guided by experience. A reduction in the present rates charged, I think, would equalize things, but to make a new schedule would only confuse matters, as we should not be able to adjust the rates among nineteen thousand consumers with the fairness desired. We want every one to get the benefit of the reduction.

Mr. Torrey—The company is receiving \$1,200,000 revenue, and if we cut off, say, \$200,000 then we know just what we are doing.

Mr. Bayly—Suppose the company don't see fit to be guided by those rates, and it presents a bill under the old rates, then it would resolve itself into a legal question.

Mr. Bryant produced the water Act of 1876 and read from the report of the Commissioners, composed of J. R. Kelly, Charles Kohler and ex-Supervisor Routree, which fixed the rate for dwellings of not more than twenty feet frontage and one story high, at \$1; two stories, \$1.50; three stories, \$2.00; four stories, \$2.50; five stories, \$3.00. For dwellings of twenty-five feet frontage and over, fifty cents extra per story.

Mr. Bryant—These rates would have yielded them a revenue of \$900,000 at that time, and now of over \$1,000,000.

Mr. Bayly—I don't think we are confined to this month to make these rates, so long as we are working at it.

Mr. Stetson—How can we show we are working at it unless we hold proceedings in open Board? We can't satisfy any Court of the fact.

Mr. Bayly—As long as we are taking action, the public should be satisfied.

Mr. Torrey—I am willing to meet every night until we arrive at some conclusion.

Mr. Frazer—I think we should consider the vacant lots and other idle property which should be taxed.

Mr. Torrey—We might fix rates for the city to pay for water for public buildings, parks, etc., and by that means lighten the rates to private consumers.

Mr. Bayly—The water tax must be levied by general taxation. Charles Webb Howard has now an expert working upon a statement of the cost and value of the property of the Spring Valley Company, for presentation to the Board.

Mr. Eastman—How would it do to take the market value of the works as a basis for rates?

Ex-Mayor-Bryant—That would be a good idea. Their present value would be about \$10,000,000. The Water Committee in 1877 offered the Company \$11,000,000, but the latter wanted \$11,800,000, including their indebtedness.

Mr. Stetson—In 1875 they wanted \$14,000,000, and including the Calaveras source, \$1,000,000 more. Subsequently they asked \$16,000,000. If we levy rates on capital the matter is simple, but if we consider what the water is worth the problem becomes difficult.

Ex-Mayor Bryant—Will you pay the interest on the investments they have made in buying out other prospective companies?

Mr. Stetson—We must recognize the condition of things as they exist to-day, the reduction of rents, cost of business, etc. Spring Valley has enjoyed prosperity, and we must regard what is just and fair.

#### THE LAW.

Mr. Torrey to Mr. Burnett—Have the courts decided whether the Board could tax the city for water for public buildings?

Mr. Burnett—They could not impose a larger burden on the city to relieve private consumers. Under the new Constitution you must pay for water supplied to the city, and must pay the same rates as are charged to private takers, or in other words, the rates must be uniform.

Mr. Hughes—if you tax the city you give the company the same income but reduce the burden on takers. In Oakland the municipal tax is \$265,000, and the water tax is \$200,000, so that consumers pay two-thirds of the entire cost of the city government, and yet the Water Company says it is only realizing four per cent. on its investment.

Mr. Burnett—The Water Company cannot collect for water after July 1st unless the rates are fixed by the Board, although they can mandamus the Board to fix rates, but they cannot compel men to be all of one mind.

Mr. Hughes—if you charge the city will you reduce the water rates to private consumers?

Mr. Bayly—We will first determine whether the company has the power to collect for parks before fixing the rates.

Mr. Burnett—that is the only safe way.

The Committee then adjourned.

FEBRUARY 25, 1880.

PRESENT—SUPERVISORS BAYLEY, DOANE, STETSON, EASTMAN, TAYLOR, WHITNEY AND TORREY. MESSRS. HOWARD, NEWLANDS AND SCHUSSLER ON BEHALF OF THE COMPANY.

Charles Webb Howard, President of the Spring Valley Water Works, read an address which is to be found on the first page herein.

After which Mr. Howard expressed the willingness of the Company to allow experts, appointed by the Board, to be placed in the Company's office and see how the rates were regulated, that they may understand how difficult it was to fix uniform rates which would be satisfactory. Repeated changes in the population of a locality, and the buildings comprised in it, not to speak of the habits of the tenants, cause a constant variation to be made in the rates charged, and prevents the fixing of a certain rate for all cases. If, after examination, the Board could suggest any rational changes in any department of the Company's business, such improvement would be gladly adopted.

The Chairman, Mr. Bayley, stated that a detailed statement of the operating expenses of the Company had been submitted to the committee, which showed a total of about \$300,000. He asked whether this amount was not excessive, and whether it could be relied upon as a measure of what the operating expenses for the next year would be.

Mr. Howard answered, that it was less than the amount of operating expenses during the two years previous, and was rather below than above what should be allowed therefor.

Mr. Howard also said that the item of \$100,000, mentioned in one of the Municipal Reports as the running expenses of the Company did not include all the operating expenses. It covered simply the office expenses and salaries.

Mr. Schussler being asked for his views upon the question of operating expenses, said that in his opinion they would average not less than twenty five thousand dollars per month. The operating expenses include taxes, the cost of setting and repairing metres, the raising and moving pipes, protecting dams, reservoirs and aqueducts, legal expenses, cost of pumping, salaries, office expenses and incidentals, which are necessarily large.

#### IMPROVEMENTS.

Mr. Schussler also said: I have reported to the President and Trustees that it is very desirable to complete the Crystal Springs Water Works, as, in the summer time particularly, we are working to great disadvantage with the San Andreas water, which supplies the district east of Valencia and south of Market, and quite a large piece of the low lands north of Market. For quite a long time last year we ran the San Andreas pipe to its greatest capacity, and yet during the middle part of the day in the dry season the pressure was so reduced that a great many elevators had to stop; the water in many cases would not flow up to the top of the houses, and it was a very fortunate thing that no serious conflagration occurred at that time. In order to give the lower part of the city, east of Valencia and south of Market street, a better supply, we should bring in that water. The Crystal Springs Lake is full; it is about fifty feet in depth, and during the rains it overflows and the water runs to waste, while if that water was flowing into the city, especially into the lower part, and a good sized main was laid through Folsom street down to the city front, it would give an independent supply for that entire lower district. We could then shut off the San Andreas water from that district and confine it to that part north of Market, say Hayes Valley, and all the low lands to the city front, including California street below Kearny and Montgomery, etc. At the same time we could connect the three systems—the upper, or Pilarcitos system; the middle, or San Andreas system, and the lower, or Crystal Springs system. We could

connect them by gates in such a way that whenever anything should break, or during a serious fire, we could let the water in from any one of the upper districts into the lower, and thus make the whole system complete and in every way efficient.

#### FIRE HYDRANTS AND FIRE PROTECTION.

Mr. Torrey, referring to the subject of hydrants, questioned whether the Board had a right to fix upon any sum to be paid for hydrants.

Mr. Newlands said it is the way they do in every other place where water is used for fire. In almost every city of the United States a charge is made for the fire plug, the idea being that the municipality pays, not for the quantity of water that goes through the fire plug, but for the protection afforded against fire.

Mr. Schussler said that the major cost of the works of the Company was for the purpose of protecting the property of the city against fire. If the Company had only provided water for domestic uses the cost would have been small, compared to what it has been in its endeavor to give the city an adequate fire protection.

Mr. Torrey was satisfied that the Company's efforts to secure property against fires were successful, and superior to the system in New York, where the hydrants, in some places, will not take water up twenty feet, while here the pressure is so good you can carry the water to the height of any building "I believe," said Mr. Torrey, "this is the safest city in the Union in regard to fires and there is no reason why valuable property should not pay a fair proportion and relieve the rate payers of the whole expense of protecting their property."

The Chairman thought it entirely legitimate to charge for fire hydrants; 1,200 hydrants at \$200 a year would be \$240,000 per annum, and which, if paid by the city, would enable a reduction to be made on the present rates to consumers of twenty per cent.

Mr. Schassler said it could not be doubted that the owners of real estate derived a benefit in the rates of insurance by the water protection against fires.

Mr. Torrey said that without the water the rate of insurance would increase one per cent, at least.

Mr. Howard stated that it was calculated that the city comprised about \$270,000,000 of insurable property.

Mr. Torrey believed the correct figure was \$250,000,000.

The Chair said the taxable property last year amounted to \$253,000,000.

Mr. Torrey regretted to learn it, as two years ago the figures were as high as \$300,000,000. He knew no reason why the few rate payers should pay for the protection of all the property in the city.

Mr. Howard believed the Board had the power, under the law, to fix a rate for a fire hydrant.

The Chair considered the Board had the right to determine what shall be paid by the city for the water used by it.

Mr. Schussler said that the Board should consider the presence of the water under good pressure, the capacity of the reservoirs, and the pipe systems, and say that these were worth to the city a certain sum. "Let it be borne in mind," said Mr. Schussler, "that the pipes now laid down are more than sufficient for domestic uses, and this increase in the size of pipe was in order to protect property against fire, and a large portion of the money expended in the city for the construction of reservoirs was also to afford a like protection to property."

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FEBRUARY 26, 1880.

PRESENT — SUPERVISORS BAILEY, DOANE, TAYLOR, EASTMAN, LITCHFIELD, STETSON;  
MESSRS. HOWARD, NEWLANDS AND SCHUSSLER.

## ARTESIAN WELLS.

Mr. Bradbury, a supplier of water by means of artesian wells, to a portion of the consumers in the city, appeared before the committee to present his views. He said that the rates proposed by the Board, reducing the present rates twenty per cent., would seriously diminish his revenue, and make his rates too low. He wanted the rates to be uniform. He had prepared a tariff of rates for the inspection of the committee. It fixes the lowest rate at \$1.50 for a single tenement house occupied by a single family of more than five persons—the ground surface covered by the tenement by 600 to 800 feet, 1-story, \$1.50; 2-story, \$1.50; 3-story, \$1.75; 4-story, \$1.75; 5-story, \$2. Then 600 to 900 feet: 1-story, \$1.75; 2-story, \$1.75; 3-story, \$2; 4-story, \$2; 5-story, \$2.25. Then 900 to 1,000 feet: 1-story, \$2; 2-story, \$2; 3-story, \$2.25; 4-story, \$2.25; 5-story, \$2.50. Then 1,000 to 1,200 feet: 1-story, \$2.25; 2-story, \$2.25; 3-story, \$2.50; 4-story, \$2.50; 5-story, \$2.75. Then 1,200 to 1,400 feet: 1-story, \$2.50; 2-story, \$2.50; 3-story, \$2.75; 4-story, \$3. Then 1,400 to 1,600: 1-story, \$2.75; 2-story, \$2.75; 3-story, \$3; 4-story, \$3; 5-story, \$3.25. No single rate less than \$1.50. Bath-tub, in private houses, each tub, 25 cents. For public houses, boarding houses, bathing establishments and barber shops, each, \$1.75—the old rate was \$2. Meter rates, as follows: 1,000 and not over 10,000 gallons, or less than 10,000 gallons, 50 cents; over 1,000 and up to 50,000 gallons, 40 cents, as per meter; over 50,000 gallons, 30 cents as per meter. I claim that is the right way to sell water by meter rates. Parties furnishing water are to apply meters, in all cases, upon demand of consumers, and, when so applied, said consumers will pay an extra charge of 35 cents per month, and meter rates for water consumed. Rates payable monthly in advance, and if not paid by the 20th of each month an additional charge of 5 per cent. to be made.

I have a well supplying 10,000 gallons, and a reservoir, containing now 200,000 gallons, and 20 feet above base, on Pine and Gough Streets.

I supply about 50,000 gallons daily. I have supplied more, and can supply 100,000 more. I intend also to enlarge my present capacity. *I do not supply any water for fire purposes.* The largest pipes I have are 5 inch, and I believe the hydrant pipes are 2½ inches.

The reservoir is located at Van Ness and Franklin. I supply mostly Van Ness, Polk, California, Pine and Clay Streets. I suppose nearly 2 miles of pipe are laid down around that vicinity.

Mr. James Warner, also supplying water by means of artesian wells, was heard by the Committee. Mr. Warner said—My works are bounded by Ninth, Tenth, Howard and Folsom. I have 22 or 23 miles of pipe laid. I have two wells with a capacity of about 12 to 18,000 gallons an hour; one well is 190 feet deep and the other 175 in depth. I supply from 40 to 50,000 gallons a day. In sinking the well we passed through about 60 feet of sand, then to clay, then sand again 100 feet, and you come to clay; we leave off in gravel. I have two tanks that have a capacity of about 50,000 gallons. Elevation probably 100 feet from the base. *I do not furnish any water for fire purposes.* My pipes are mostly 2 inch. My tanks are elevated from the street about 40 feet. When we are not pumping, the water rises in the well 21 feet from the top of the ground; we pump 15,000 gallons an hour from one well; we lower the well 13 feet when we are pumping. The material at the bottom of the well is gravel. I supply 40 or 50,000 gallons a day to the full capacity of the tanks.

Mr. Warner said this well water had never been analyzed.

Mr. Bradbury stated that Prof. Price had returned him a report proving the water supplied by him to be entirely healthy.

## REPORT OF ENGINEER SCHUSSLER.

Mr. Schussler, engineer of the Spring Valley company, here read by permission a report by him upon the necessary improvements required by the future growth of the city. This report will be found on page 15.

#### THE VIEWS OF AN UNDERWRITER.

D. J. Staples being asked for his views by the Committee, stated: There is at least \$100,000,000 of insurable property in this city. That property is very largely benefited by the protection that the Spring Valley works afford. The rate of premium would certainly be very much higher if it were not for the protection given by the company. In the absence of this protection the rate would be at least one and a half per cent. more than it is to-day. This is a wooden city, and without the protection given by the water company it would be hazardous to take fire risks at any rate, for if a fire should start it would not be long before the city would be wiped out. The underwriters a year ago appointed a committee to investigate the Water Works with regard to their ability to put out fires. We made a thorough investigation, the result of which was embodied in a report, which was printed. We found certain portions of the city deficient in pipe system, which was admitted by the engineer of the company, and we recommended that the company make the improvements necessary to protect that portion of the city, and their answer was that they were uncertain as to the future, whether they would be allowed to charge rates sufficient to give a reasonable interest to the stockholders and furnish the requisite means to do this necessary work, and until that was settled the underwriters could get very little hope that the improvements would be made. There is quite an area of country south of Market Street which ought to have larger pipes. We were some eight months investigating the subject, examining the pipes in different portions of the city, and we found that the city, in our judgment, was very much better protected than we supposed it was in the beginning of our investigation. The expenditure of perhaps, \$150,000 in large mains and pipes would give all the protection we could ask for. Aside from the endorsement by my signature of the underwriters' report I think the Spring Valley system is a very excellent one indeed—entirely sufficient for the wants of the city now and for a long time to come. Mr. Staples believed, further, that in the long blocks south of Market Street, instead of having a hydrant at each end, there ought to be one in the middle, also as thou lose power by being so far apart.

#### THE PROBLEM OF COMPENSATION.

Mr. Taylor wanted to know how, provided, the city had the power to fix the compensation for water, they could get at a just compensation to the company for water used for the various municipal purposes.

Mr. Newlands replied that it could be reached in two ways; one would be to determine the proportion of the benefit received from the supply by the city, and determine that proportion, say  $\frac{1}{4}$  or  $\frac{1}{3}$  or  $\frac{1}{2}$  to be paid out of the general fund, thus diminishing the rates of the rate payors, or the Board might fix less rates for the present rate-payers and make the deficiency up to the Company by fixing rates also for the city, as for instance, a certain rate for the public buildings, a certain rate for the parks, and a certain rate for each hydrant to cover water used for fires and flushing sewers.

In response to Mr. Taylor, Mr. Newlands said he was not prepared to say what proportion of the water is used for public purposes.

#### AMOUNT OF WATER CONSUMED.

Mr. Stetson was informed by Mr Schussler that the daily use of water at present is between 12 and 13,000,000 gallons. The average would probably run a little below that on wet days. It has run as low as 10,000,000 gallons. We have had days when it has reached more than 16,500,000 gallons. I think a fair average would be 12,000,000 to 12,500,000.

We measure the water every day as it comes into town, every morning at seven o'clock, and keep the run of it during the day.

Mr. Howard stated that the Company was governed in its rates by the schedule of the commissioners issued in 1878, although it is not conformed to in all cases. For

instance, it allows us to charge for each person over five in one family and for washing windows 2 cents a foot, but these items are never charged by us. With these exceptions we adhere to the schedule.

Mr. Bayley asked for the number of rate-payers.

Mr. Howard answered between 17 and 18,000.

#### WATER RATES.

Mr. Quinlan, Regulator of Rates, stated that he was prepared to inform the committee upon any points suggested by them.

Mr. Quinlan, replying to questions, said that the company had two systems of charging for water—one, by the number of square feet of a residence, and the other by meters. A slight increase or decrease in the amount of water used is not heeded. If your bill was \$5 by the rate, and upon applying a meter it was found that it only amounted to \$3.50, or that it ran over and amounted to \$6.50, there would be no change. Changes are only made in cases of excessive waste.

Mr. Schussler said that not long ago they were informed that there was a waste of water in some of the dwellings in a row of houses that were all alike, and rated at \$2 each. Meters were put on, one at each house, and, as a result, some of the \$2 rates went down to 90 cents, another went up to \$1, and another to over \$30; one to \$15, and another to \$22. The parties in fault were then asked to discontinue the waste, which they did.

Mr. Quinlan said: "I have had years of experience in the fixing of rates," and it is almost impossible to fix a rate that will be exact in all cases or for all houses. I should be, and the company would be, perfectly delighted if any gentleman would introduce a cast-iron system, and relieve us of the annoyance and responsibility now existing. You will find it impossible to determine a certain rate for all cases, as so many things are to be considered. No two houses are exactly similar in point of construction and surroundings and use. I have worked for the Croton Water Works, for the Water Company in Buffalo, N. Y., and for the two water companies in this city before the Spring Valley was introduced. I have met everywhere with just such complaints as are made here.

Mr. Schussler, in reply to a question by the Chair, stated that the average amount received by the company for one thousand gallons of water was twenty-seven cents. In order to get that amount net, the company must charge on an average about eighty cents—in other words, there is nearly two-thirds of the water that is not paid for, it goes to waste, as you might call it.

Mr. Staples considered that property ought to contribute to the expense of supplying the city with water, and relieve in a measure the consumers who now pay for all the water used for public purposes.

#### METERS.

Mr. Stetson argued that the proper way to sell water was by meter rates.

Mr. Schussler said the system could not be successfully used here. Poor men would find their bills far beyond their means and expectations, and landlords would fear being bankrupted by wasteful tenants, and as a result, the water might be charged for, but the company would never be able to collect the money due for it.

Mr. Newlands stated that the Company had introduced meters during the drought, and there was a general outcry on the part of the press and public, and it was condemned as a Spring Valley outrage.

Mr. Stetson further objected to the price per thousand charged by the company; he thought that if this were right the whole thing would regulate itself.

Mr. Schussler deemed the question as broad as it was long. Each consumer wastes more or less water, and what is wasted goes into, and helps to flush, the sewer, to the benefit of the public health. To obtain the same effect the city would be compelled to run the same amount of water from our hydrants.

Here the Committee adjourned until Friday, February 27th, 1880, at 2:30 p. m.

FEBRUARY 27th, 1880.

PRESENT—**SUPERVISORS BAILEY, STETSON, DOANE, FRAZER, LITCHFIELD, TAYLOR, MASON AND DRAKE.** ON BEHALF OF THE COMPANY, MESSRS. HOWARD, SCHUSSLER, NEWLANDS.

Mr. Dougherty, by permission, presented his views upon the water question. He believed that under the new Constitution the Board had the right to say who shall pay for water. Water should be free to consumers, and the money paid for its supply should be obtained by a tax upon property which should bear the whole burthen. The consumers are oppressed by heavy rates, while the large property owner pays nothing for the protection given to his property. As the citizen is allowed the benefits of a fire and police department, sustained by a uniform property tax, in like manner he should be furnished with water. He would allow Spring Valley six per cent. on the valuation of its works, in addition to running expenses; the criterion of value to be the aggregate market value of its shares of stock. He believed this to be a liberal rate of interest as property has not paid over four per cent. above running expenses in the last five years, and Spring Valley should not set its property apart from the common fate. It was tantamount to impudence in his mind that the company should ask for interest on an indebtedness (\$4,000,000) incurred by it unless the money was used in its works. He was indignant at the present system of collecting rates, stigmatizing as the height of injustice a tariff which throws upon the consumer the entire burthen while property enjoys the protection it does not pay for. "Is there any reason or sense in that?" asked Mr. Dougherty. "If the water is a public use and benefit why should not the city pay for it?"

#### MODE OF DETERMINING VALUE.

Mr. Newlands—The market value of the stock is no indication whatever of the value of the property or its cost. There has been a great agitation of the water question during the past four years. The whole matter was under investigation by Water Commissioners appointed under an Act of the Legislature, and numberless schemes were formed to supply San Francisco with water—the Blue Lake scheme, the Clear Lake scheme, three San Joaquin River schemes, the El Dorado scheme, the Feather River scheme, the Puta Creek scheme, and the Lake Tahoe. They provoked considerable excitement and fears were entertained that an expensive scheme might be introduced which would involve the city in great debt, and would materially diminish the value of the property of the Spring Valley Water Works. Then the new Constitution, which took the power of fixing the rates out of the hands of the board of arbitration provided by the old law and vested the power in the Supervisors, the representatives of the consumers. All these events have necessarily had a very depressing effect upon the stock, and have caused timid stockholders to throw their stock in the market and thus reduce the market value, but the majority of the stockholders retain their stock, regarding it worth what they paid for it, namely from \$100 to \$120. In London, taking the market value of the stock would be a just rule to adopt for the condemnation of the property of the water companies there, and why? Because the companies were guaranteed by their charters ten per cent. upon the cost of the works. There the prevailing rate of interest is from 2½ to 4 per cent., and stock that paid ten per cent. would quadruple in value. There was no uncertainty there with regard to dividends; no fear of undue regulation of rates or of oppression on the part of the public. The result is that those stocks stand way above par. Some of them I understand at many times par. In determining, then, the value—when it became advisable to condemn the property of the different water companies—Parliament determined to be liberal, and the most liberal way of condemning property was not to take the cost of the works, but to take the value in the market of the stock; that rule would not operate justly here, for the action of the city and of the public has tended to alarm the stockholders and depress the market value. The gentlemen who first projected this enterprise, risked their money upon the growth of this city, and they deserve a reward for the foresight that enabled them to see that a city of 300,000 inhabitants would spring up on this peninsula, and the energy

and ability which met the wants of the growing city. If, as the President of the company said in his address the other day, the city had come to a standstill, as it was feared it would do in the Frazer River excitement, they would have lost their investment. By the very charter by which they were incorporated, they were guaranteed 20 per cent. on their investment; without this guarantee they would not have entered upon the work. Without regulation the company would have no trouble in securing an ample revenue. The question presents itself, then, are you going to regulate the income of the company and thus depress its stock, and then take the regulation itself as a factor in the determination of the value of the works? If you take the market value to-day—\$85—and reduce the interest on the stock to 6 per cent. it would make the stock fall in the market to \$40 or \$50 per share. This will be the effect partly of the reduction of interest, and partly of the fear that the action to-day is simply a premonition of the action to-morrow, and that if a reduction of two per cent. is made this year, that next year there will be a reduction of two per cent. more. If the value of the stock in the market is to determine the value of the property, and you reduce the dividends two per cent., it will fall, as I say, to \$45 or \$50 per share. Next year the Board of Supervisors will consider the matter, and they will again determine the value of the property by ascertaining what the company's stock is worth in the market, that is, \$45 or \$50 a share, and they will allow perhaps five per cent. on that. The following year the value of the stock being still further reduced by this regulation, the Board will again determine the value of the works by the market value of the stock. The stock will be worth perhaps \$30 a share. In five or six years the city will thus have the property for nothing. The only way to determine the real value of this property is to ascertain what it would cost to bring an equal amount of water from some other source of supply into San Francisco, and it has been shown upon investigation that it would cost from twenty-five to forty millions. Of course the company does not expect you to increase the rates so as to give it a fair interest upon a just valuation of its works; it only claims that you should not reduce them until the income reaches beyond the limit of a fair rate upon a just valuation. Yet the absurd theory is advanced that you are to reduce the income of the company, and keep reducing it, and reducing the value of its stock in the market, and that you are to take such reduced valuation as the measure of the value.

Mr. Dongherty thought the reduction of interest did not depreciate the value of the stock but believed it had a contrary effect.

Mr. Newlands, in reply, cited the time when the interest on Spring Valley Stock was nine per cent.; two years ago, it was reduced by the Water Commissioner from 9 to 8. Before the reduction the stock was quoted at about par; since then it has not been above 92, and has fallen as low as 83.

Chief Engineer S. Annell, in response to a question by Mr. Schussler, said he considered we had a better water pressure here than in any Eastern city he had visited. Continuing he said: "You could place a water-gauge upon each hydrant and ascertain how much water passed through. A record is kept of every fire, and the number of hours each company is detained there. We have now in the Fire Department in this city 1299 hydrants, set up for fire purposes."

#### OPINION OF THE CITY AND COUNTY ATTORNEY.

*Office of the Attorney and Counsellor for the City and County of San Francisco.*

SAN FRANCISCO, FEB. 27, 1880.

To the Honorable Board of Supervisors of the City and County of San Francisco:

GENTLEMEN—I have respectfully acknowledged the receipt of the following resolution of your Board, to wit:

Resolution No. 14514, (New Series).

*Resolved*, That the City and County Attorney be and is hereby respectfully requested to render his opinion as to the liability of the city under the New Constitution, to pay for the use of water for municipal purposes. Also as to whether in the event of an agreement on the part of the city to pay for water in the future, such action will render her liable for bills heretofore incurred, and to render such opinion before next Friday evening, and in reply thereto to state:

First—That in the opinion of this office, this City and County is *liable* under the "New" Constitution, to pay for the use of water furnished by any individual, company or corporation, for all municipal purposes. \* \* \* \* \*

Second—That in the opinion of this office, the Ordinances and Resolutions of the Board of Supervisors of this City and County, fixing the rates or compensation, for the use of water, supplied to the City and County by any person, company or corporation, under the provisions of said Section 1 of Article XIV of the the "New" Constitution, does not take effect until the *first day of July, 1880*; and that such Ordinances and Resolutions, in my opinion, could not, under the law, so operate as to create and fix a liability, on the part of this City and County, for any bills for water, that may have been incurred prior to that time.

JOHN LUTTRELL MURPHY,

Attorney and Counsellor for the City and County of San Francisco.

#### THE MANDATE OF THE LAW.

Mr. Newlands said he had learned that the Board had determined to take final action on the water question at a meeting this evening. He asked that before such action should be taken the Company be allowed to fully present to the Board every fact which it considered important for the ascertainment of a just valuation. This Board, he said, is acting judicially in this matter; its judgment will determine the income of the Company for the next year. You are acting as judges in your own case, and every opportunity should be given to the Company of presenting the facts.

Mr. Stetson said it was plain to his mind that under the language of the new Constitution the ordinance to fix rates must be passed in February, while Mr. Newlands contended that any time before July would be a substantial compliance with the law.

Mr. Baggett, Assistant City and County Attorney, concurred with Mr. Stetson. In reply to inquiries from Supervisor Taylor, Mr. Baggett said he believed that under the Constitution the Board did not need any enabling power from the Legislature before it could fix water rates; and also, that it was vested with the power to charge the municipality for water supplied to it.

And here the Committee went into executive session.

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MARCH, 11th, 1880.

PRESENT—MESSRS. BAYLY, LITCHFIELD, DOANE, EASTMAN, TORREY, TAYLOR. MESSRS. HOWARD, NEWLANDS, SCHUSSLER, AND BARNES, ON BEHALF OF THE COMPANY.

Mr. Newlands stated that the four proposed ordinances had been submitted to the bookkeepers of the Company, with instructions to report as to the effect each would have upon the Company's present revenue. The income for January, 1880 (107,690), had been taken as a basis of computation. The average income was about \$104,000 monthly. Mr. Newlands read the statements prepared by the bookkeeper, setting out that Mr. Torrey's resolution would reduce the annual income \$31,188 per month, or \$374,256 annually. Mr. Bayly's resolution would reduce the revenue, monthly, \$4,691, or \$59,582 annually. Mr. Stetson's order would decrease the revenue \$31,463 monthly, or \$270,000 annually. Mr. Litchfield's order would reduce the revenue \$50,229 monthly, or about \$600,000 per annum.

Mr. Torrey stated that his figures did not comprise the \$150,000 which it was estimated the city would pay.

Mr. Whittaker, the head book-keeper of the water company, and Mr. Herrick, the registrar of the company, stated that the computations were as near a mathematical certainty as could be reached; they did not think their figures would vary one-quarter of one per cent. from absolute accuracy. The amount had been computed in many ways, and each gave a like result.

Mr. Newlands here explained that the tariff of rates fixed by the Commissioners in 1873 only covered family uses, the law then being that under the statute the Commissioners could only regulate the rates for family uses. The new Constitution seems to provide that

rates should be fixed for everything; and if so, it will be necessary to add to the tariff of rates a tariff for stores, offices, warehouses, photograph galleries, etc. Some of the orders would leave barely enough to pay the operating expenses and interest on the indebtedness.

Mr. Baily inquired if fixing the rates for other than family purposes would not increase the revenue of the Company.

Mr. Newlands—Not at all. The Company has been deriving a revenue from these sources and fixing the rates itself. The statute of 1858, under which the Company is incorporated, provided that the Company should furnish water for family uses at reasonable rates, providing these rates should be fixed by the Commissioners. The Commissioners fixed only the family rates, leaving the Company itself to fix the rates for water used for other purposes. The Company has been deriving an increase from the rates fixed by the Commissioners, and also a revenue from the rates fixed by itself for other purposes. It will be necessary for the Board to fix on rates for these purposes other than for family uses.

#### IT DOES NOT INCREASE THE REVENUE

of the Company. Mr. Newlands here presented a schedule for the consideration of the Board. He said that the tariff was not strict, but left a great deal to discretion. It would be impossible for the Board to fix, arbitrarily, the amount that is to be paid for every store in San Francisco.

Mr. Torrey suggested that the rate be established by the area of ground covered by the building.

Mr. Schussler did not believe that could be enforced.

Mr. Torrey was in favor of the attachment of meters, but Mr. Schussler pungently enquired, who is to pay for them?

#### WOULD THE CITY PAY THE INTEREST

on the money if they were provided by the Company? It would cost over \$300,000 to meter the city.

Mr. Herrick, in reply to a question, stated that the highest rate paid where there is no meter was \$40 to \$50; about 17,165 at \$5, and under 1800 or 1900, over \$5.

Supervisor Bayly (to Mr. Howard)—What value do you place upon the property?

Mr. Howard—That depends. If you were to ask me what it costs, I should not have any hesitation in saying that it has cost a good deal more than we have ever asked for it.

Mr. Newlands—We claim that the only way of determining the value of the property is by ascertaining what it would cost to bring an equal amount of water into the city from some other source, which would be at a low estimate \$20,000,000.

Mr. Bayly—Mr. Howard, what would the Company be willing to sell its works for?

Mr. Howard—We will give an answer to that question: \$14,500,000 with Calaveras, \$13,500,000 without it. We think that a very low valuation.

Mr. Eastman stated that Mayor Bryant told him that an offer was made to him by Messrs. D. O. Mills and Lloyd Tevis for \$11,700,000.

Mr. Howard—They were not authorized by the Company to make any such offer. Mr. Bryant has also made the statement that the city made an offer to the Spring Valley Company; the Spring Valley Company has never received an offer from the city of any kind.

Mr. Bayly—Mr. Schussler said that a good deal of work has been done since the debt of the Company has increased. You think that is the lowest possible figure that the Company would take under any circumstances?

Mr. Howard—Yes, sir.

Mr. Newlands pointed out to the Committee the

#### DEPRESSION OF THE STOCK

which he considered would ensue should the present ordinances be adopted without amendment.

Mr. Schussler stated that they would bar all improvements and stop the works at present progressing. He drew attention to the Crystal Springs' reservoir, and urged the necessity

of bringing its waters into town, which would cost about \$1,000,000. The lake was full and running to waste, and if we should have another dry Winter the same as '62-3, and '64, the following year the city will be without water, notwithstanding this immense lake 21 miles away. We cannot use it, and then it will be too late to bring the water here.

On that point, said Mr. Schussler, and I want to be put on record. I speak now not as the engineer of the Spring Valley Company, but as a citizen and tax-payer."

Mr. Newlands explained that the revenue of the company is already diminished to \$1,250,000. The income of the company to-day was barely sufficient to pay a dividend to its stockholders and interest and running expenses. The company ought to have a sinking fund to meet its indebtedness, and ought to have a contingent fund to meet any emergency.

Mr. Taylor thought the contingent fund should come out of the profits.

Mr. Newlands said that it should come from the gross income.

Mr. Schussler, to show how much in earnest the company was to have their revenue and property reasonably adjusted, said he was satisfied that Mr. Howard and Mr. Sharon, and the principal stockholders, were willing to let this Board step into the Board of Directors as a part of it, to handle the whole business.

Mr. Howard and Mr. Newlands said the water company would be willing to let the Supervisors have a representation.

Mr. Taylor raised the vital point as to whether the Board of Supervisors had the right to determine the rates to be paid by the city, without any authorization from the Legislature, under the new Constitution. He called for an opinion from

#### GENERAL BARNES,

who replied at length. He said he had been educated to the idea that the Constitution of every State, and of the United States, was a declaration of general principles, and that legislation was needed to give them force. It has been a general rule of judicial construction under every existing republican government known to mankind, up to the adoption of the Constitution of California, no Constitution was self-executing; that it needed the voice of the people expressed through the legislative department, to put in operation the principles laid down in the Constitution. The Court of California seemed disposed to say that our Constitution is self-executing, and had laid down the principle in a recent case—People vs. Colby. His own judgment was that the

#### CONSTITUTION WAS NOT SELF-EXECUTING.

either as to the powers conferred on the Board of Supervisors, or in any other respect. That principle would be severely tested in relation to the action of the Election Commissioners, who had called a special legislation. His opinion was that they could not do it; yet, according to the views that had been thrown out, they could do so. He thought it would be decided adversely to their power, if any citizen in San Francisco had pluck enough to test the question. He believed that the Supervisors needed an enabling act to fix on any sum which the city can be compelled to pay for water; it was very questionable whether the Board had such power without enabling legislation. He thought such rate was in the nature of a tax, and required legislative aid to authorize the Supervisors to proceed. The difficulty about water legislation was, that it was supposed to be dictated by Spring Valley. In Sacramento—where no one drank water—if the subject was mentioned, there was a general whoop and ringing chorus against Spring Valley. Yet no sensible man in San Francisco believed that the city ought not to pay for what it gets, and does not own. He thought that the Supervisors ought, by resolution, to ask the delegation from this city to pass an enabling act. No ordinance ought to be so framed as to destroy property. There was enough of the spirit of communism and destruction abroad in this part of the country without its getting into the Board of Supervisors. He regarded Mr. Litchfield's order as mischievous. It would cut the water company off at the knees, by reducing its income just one-half. The spirit of agrarianism was disturbing the constitutional rights of life, liberty and property. It would be a great misfortune to the city, to adopt a course which would materially injure the market value of the water stock.

In reply to Mr. Taylor, General Barnes said that an act authorizing the board to "furnish water and pay for the same" would be sufficient. It ought to be an act setting the machinery in motion, with a special clause giving power to fix rates for the municipality. He warned the committee that injudicious action on the part of the Board could be revised in the courts. A moderate and conservative course should be followed. The company should be fairly treated and its property justly estimated, without any desire to arbitrarily cut off its life by reducing its income to an inadequate sum. Justice should animate the conduct of the Board, and they should shield themselves against the agrarianism so rife in the city and so annihilating to its worth, credit and prosperity. Popularity should not be sought by temporary demagogism, for its end would only consummate the ruin of the author and not the intended victim. Their action would be watched outside of their narrow jurisdiction, and he would not have it occur that any action of this Board should augment the misfortune now upon this city, to be probably aggravated by idle malcontent and communistic agitation. In such a conjuncture, the just estimate of property should be upheld.

The Committee adjourned to meet to-morrow afternoon at 2:30 o'clock.

VIEWS OF CLAUS SPRECKLES, EX-GOVERNOR LOW, CHARLES MAYNE AND JOHN PERRY, JR.

PRESENT — SUPERVISORS BAYLY, LITCHFIELD, DOANE, EASTMAN, TAYLOR AND TORBEY  
MESSRS. HOWARD, SCHUSSLER, NEWLANDS AND BARNES FOR THE COMPANY.

MARCH 12TH, 1880.

The Chairman stated that the Committee deemed it advisable to hear expressions of opinion upon the subject of their investigation from prominent and well informed citizens, and to that end several gentlemen had been invited to present their views at the present meeting.

Mr. Claus Spreckles, being solicited to address the Committee, replied that he had just returned from the East, and was not familiar with the exact status of the question. He never owned a share of Sprung Valley stock, nor did he utilize the company's water, and had no occasion to familiarize himself with its affairs.

Mr. Newlands stated that the yearly income of the company was \$1,250,000; the operating expenses, \$300,000; dividend to stockholders, 8 per cent. on \$8,000,000 (\$640,000), and \$287,000 paid as interest on an indebtedness of \$4,000,000; and asked Mr. Spreckles what would be

A REASONABLE RATE OF INTEREST

on a fair valuation of the works, confining the income to operating expenses and the expense of repairs, breakage, etc.

Mr. Spreckles said he thought that 12 per cent. would be a fair percentage on the investment, and provide for operating expenses and a contingent fund. He would not invest a dollar in an enterprise of that kind, except he received 12 per cent., which would be a low interest, considering the hazard incidental to the business.

Mr. Eastman inquired if he would consider it hazardous where by fixing a determined rate the company's income was guaranteed.

Mr. Newlands said it could not be considered a guarantee where the rates were subject to change every year.

General Barnes also opposed the expression "guarantee." The fixing of rates, to go into effect July 1st next, was no guarantee. Who could tell what might happen during the year following? How many paying consumers would there be? What would be the hazard that year as compared with last year?

Mr. Newlands said that in one year the Company was compelled to expend over \$500,000 to meet an emergency by reason of the dry season. The fixing of rates is no

guarantee of income; the company takes the risk of breaks in the dams and pipes, fires sweeping away a portion of the city, and thus diminishing its income. Competition by artesian wells, or by a rival water scheme, competition even by the city itself, as was threatened several years ago, and recently, also, when the Lake Merced scheme was being pushed. These are risks which the Company takes and which it cannot insure against, and concerning which the city gives no guarantee. All the city does is to limit the income which the company is to receive, it does not guarantee it.

Mr. Spreckles—Inasmuch as it is now in the power of the Supervisors to regulate the rates every year, and in view of the risks dependent on emergencies unknown and unguessed, and natural wear and waste, I consider this water business a hazardous one. I do not think that, from the nature of the organization and the power of the law over it, as obtained from the new Constitution, it has any guarantee in its revenue. I do not think that the Company's income

#### CAN BE SAFELY DIMINISHED.

A serious accident happening might reduce the interest from 12 to 6 per cent.

Mr. Eastman asked Mr. Newlands if he deemed the business more hazardous than before the new Constitution was adopted?

Mr. Newlands—Yes, I do. However, I regard the business as an extremely hazardous one prior to the adoption of the new organic law and regardless of it. Consider, if you please, the situation of this city upon this peninsula, the fickle nature of our climate, often seven or eight months of dry season in the year,—the need of artificial lakes, constructed at a great expense; dams to be made; the chance of a dam giving way, and, further, the probability of competition from other associations, and, not the least, the city itself, and the vicissitudes of hostile legislation. Reflection on such, not unlikely occurrences, and the hazard and risk of the business are patent and undeniable, and I think that if to-day capitalists were asked to go into this investment, with a view to supplying this city with water, they would not be content with even twelve per cent. on the money invested.

Mr. Howard stated that the charter obtained from the Legislature allowed 20 per cent.

Mr. Newlands said that in London, where the prevailing rate of interest is 2½ to 5 per cent., the companies are allowed 10 per cent., in view of the hazard incident to the enterprise.

Mr. Eastman asked Mr. Howard if he valued the property at the same figure now as before the adoption of the Constitution.

Mr. Howard said he did; it had not hurt the value of the property, but only augmented the hazard of the business.

Mr. Spreckels said that the water he obtained from his artesian wells was not adequate protection against fire. He believed that

#### THE CITY SHOULD PAY A PORTION

of the water-tax for the protection of property against fires. Although he did not use Spring Valley water, and had his refinery well protected with his own water, still he would be willing to pay his pro rata of the tax for keeping water in the city for fire purposes, or watering parks and flushing sewers.

Mr. Schussler called attention to the foresight of the company in purchasing the Calaveras property. If they had not bought it, they could not touch it for \$3,000,000 where they paid only \$1,000,000 before. He said the opening up of the Western Addition and a large area on the higher portions of the city would soon require additional supply for those parts. The only water at present available for the upper parts of the city outside of Lobo's Creek was Pillarcitos water-works, supplying 4,000,000 gallons daily, and could never increase at its elevation; while the Calaveras was high enough to supplement the Pillarcitos. Calaveras was, therefore, of vital importance, and it had been favorably viewed by Colonel Mendell. The location of the dam was so excessively good that the valley at the bottom is only about 50 feet in width, and admits of a lake containing something like 30,000,000,000 gallons, by building a dam of 120 feet in height, more or less.

In reply to Mr. Torrey, Mr. Spreckels said he would prefer four per cent. Government bonds to Spring Valley stock at eight per cent.

John Perry, Jr., a dealer in bonds and securities, made a statement as to the

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### FLUCTUATIONS IN SPRING VALLEY STOCK,

which he has bought and sold since its organization. He gave the following quotations of sales: In 1875—90 to 93. In 1876—August, 100; December, 101. February, 1877—108, 110; April, 1877—98, 94, 91; balance of year, 91. January, 1878—90; August, 94; October, 90. January, 1879—89; May, 87; July, 84, 83. This latter depression was owing to the adoption of the new Constitution. The stock had always been held as an investment by parties seeking an income on their capital. Very little has changed hands. Seven-eighths of the stock sold passed through his hands, outside of Mr. Sharon, who owned a controlling interest. Not over 2,000 shares changed hands last year, with the exception of an outside 1,000 held on speculation by a city bank. After the political excitement the stock advanced to 85. In January it was 85, and in February 89; to-day it is 86. The appointment of Commissioners in 1877 affected the stock, and when the Commissioners reported in favor of the Blue Lakes, it sold at 83. The absence of power to construct works, however, ended the agitation and the stock went up to 90 and to 95. Hostile legislation, and not the least a hostile Press, have forced the fluctuations in value. The reduction of interest, particularly if it is not a settled and undisturbable rate, will hurt the stock. When the company reduced its income from 9 to 8, it caused great complaint. The interest should not be reduced because of the contingency depending upon the revenue. The overflowing of a reservoir would subject the company not only to the loss for repair, but for damages occasioned to adjoining land. The company should have a good fair rate of interest, not less than 10 per cent., and probably 12, when you bear in mind the

### RISKS AND UNCERTAINTIES,

And the future needs of the city.

Charles Mayne stated that in 1867 and 1868, he was President of the Spring Valley Water Works, and was in the Board almost from its inception. He now owned a considerable amount of stock, averaging him \$95½ a share. The par value of the shares was \$500, and cost, after payment of assessment, about \$450. Interest was then 3, 4 and 5 per cent. Ensign got the charter from the Legislature, allowing 20 per cent. We put our money in the water scheme, in the belief it would draw that interest. We do not get even 8 per cent., and if it keeps on, we won't get anything. Mr. Mayne claimed that the city had been built by the Spring Valley Company. As there is no running stream in the neighborhood, the water had to be collected—in fact, made—and that cost a great deal of money, attention and trouble. In 1867-68, while President, I bought some fifty-vara lots in connection with one of our reservoirs, in order to prevent people from coming to us for damages. I bought them for \$1,500 apiece. I am now told they are worth \$20,000 apiece, yet they stand on the books at \$1,500. So with all the property that the Spring Valley has. The Market Street property, worth \$500,000, stands on the books of the company at a nominal price. I also bought a quantity of land on San Andreas Creek, to protect the property of the company and to hold the water in check. In that way we have created the water.

Nobody thinks now where it comes from or what it has cost to produce it and bring it here. It is not the water that costs; it is the ways and means to bring it here. The water-works, without taking into consideration any increase in value, are worth \$14,000,000.

### EX-GOVERNOR LOW'S OPINION.

Ex-Governor Low, upon request, presented his views. He said it was almost impossible to give a valuation on the property. In former times, I was familiar with the older water-works, when they first started, but latterly I have not been familiar with their expenditures. I know the stock has fluctuated from par to about 80. While private property, it in a sense is *quasi* public property; the municipal authorities, by authority from the State, have the power to limit and fix the rates of your income, which always renders such property a little insecure, sometimes a good deal uncertain, and I would not be willing to invest in such property for anything like a rate of interest that I would in bonds when they run for a definite time, properly secured and providing for an interest payable annually. In other words, that I would not purchase Spring Valley stock unless it paid

### A VERY MUCH LARGER DIVIDEND

Than would the bonds of the Company secured by a first mortgage upon the property and running for a definite term—say, twenty-five years at a fixed rate of interest. I would prefer the bonds at 5 rather than the stock at 8. I consider, too, that the property is liable to be affected by contingencies of the elements; and an earthquake, or a sweeping conflagration, would cut off a large portion of its revenue for probably some time afterward. The property is also subject to the uncertainties of legislation. It is the hazard of the business which renders its income unstable, and I would prefer well secured bonds running for 25 years at 6 per cent., than the stock at 9. If the stock is worth 85, paying 8 per cent., and you reduce the rates so that it will only pay 4, you reduce the value of the stock one-half, or make it 42½; for the reason that people would believe that succeeding Boards would put the rates back so as to yield a fair interest on the investment, and they would discount the future, probably, in the selling price of the stock; but for that consideration it would reduce it about the same pro rata; as you reduce the income you reduce the value of the stock.

General Barnes—What do you think would be the effect abroad upon the investment of capital here, if it were known that the governing body in this community had reduced the income of the Company, so that those who had invested in it should receive one-half or two-thirds of what they had been accustomed to receive?

Governor Low—Well, it would probably destroy what little confidence there is left. It has always been my impression, gathered from reading and actual knowledge, that the bringing of water into cities, and having it run through the streets in pipes, for the extinguishment of fires, thereby

### REDUCES THE RATE OF INSURANCE

Upon property, and the city should pay for the water that it uses a fair proportion, and levy it as a tax upon the property, making it bear a part of the burthen for the protection that it receives, and thus lighten the burthen upon the consumers who actually consume water. I never had but one opinion about that, and I think that is the settled opinion in all parts of the country, even in cities where they own water-works. I think as a rule they assess one-half of the cost of the water where the city owns the works and has issued bonds to the corporation, and endeavor to collect the other half from the consumers. It is undoubtedly unjust that the comparatively small number of inhabitants of a city who consume water should pay the entire cost of bringing the water into the city for fire and municipal purposes; that that load should be saddled upon the comparatively few consumers in proportion to the number of inhabitants of the city. In estimating a future revenue, regard should be had to the contingencies to which the property is subject.

General Barnes asked what was the reason that four per cent. bonds were worth 107½, and the stock of the Spring Valley Company, paying eight or nine per cent., should bring only 85.

Mr. Low replied that in the case of the Government bond the security is ample and the bonds are free from taxation, which the Spring Valley Stock is not. But beyond and above all that, is the stability. Capital is timid; you may call it cowardly; it runs at the slightest provocation. It seeks stability more than it does a large rate of interest. Each session of the Legislature

### DISTURBS THE VALUE OF PROPERTY

In this State, and thus the stock is subject to the vicissitudes of legislation.

If the city Government would guarantee five per cent. for 20 or 30 years, it would make the stock a better investment than to leave it in an unstable condition by an annual fixing of rates with the power to change them yearly. Were the city to do this, it would be a greater credit to it in the market world. In that event the city would assume all the risks and hazards. Should the city establish certain rates, it would be no guarantee of income to the company.

General Barnes—In other words, the limit placed here now by the city is the maximum, and no limit to the minimum.

Mr. Bayly—What proportion do you think the city ought to pay of the total amount the company receives?

Gov. Low—if I consulted my own interests as a water-consumer, I should say a very large proportion, but were I a representative of the City Government I should fix it at one-half, if the matter was to be adjusted by legislation; following the principle that obtains in other cities, I suppose one-half would be considered a fair rate for the property to pay for its protection. But were you, as a Board of Supervisors, to estimate the quantity of water consumed by the city in public buildings and extinguishing fires, as compared with the quantity used by the manufacturers, it would not amount to half, if you come to measure it, but the

#### PROTECTION IT AFFORDS TO PROPERTY,

And the gain which they make by the saving in the cost of fire insurance; all these elements must enter into your calculations.

Mr. Litchfield—Estimating that the city used one-third, should the city pay one-third— $33\frac{1}{3}$  per cent.?

Governor Low—I don't see why the city should not be placed upon the same footing as myself as a consumer. The elements of security, of the gain, by the reduction of fire insurance consequent upon the introduction of water, over what it would be were it not supplied with water, should enter into your estimate in arriving at a fair and just distribution of the burthen.

Mr. Schussler explained that the company has not confined its efforts to the supply of water for domestic purposes alone. Where four-inch pipe would be ample, eight-inch pipe has been laid for fire purposes, and the company had laid 22, 18, 16 and 12, simply to keep a supply of water in case of fire. The cost of outlay is fully one-half more than what it would have been under a system of domestic supply alone. Yet the company has never received any income from this water furnished for fire purposes; and, in addition, large reservoirs have been constructed in this city—60,000,000 gallons are kept on hand day and night, so as to have an adequate amount of water for fire purposes.

The committee adjourned, without fixing a time for resuming the consideration of the water problem.

#### VIEWS OF JOHN F. POPE, EXPERT ACCOUNTANT, AND COL. GEO. H. MENDELL, U. S. ENGINEER.

PRESENT—MESSRS. BAYLY, EASTMAN, DOANE, SCHOTTLER, WHITNEY, AND LITCHFIELD,  
MESSRS. HOWARD AND NEWLANDS ON BEHALF OF THE COMPANY.

APRIL 2d, 1880.

John F. Pope, an expert accountant, presented to the Board a report, giving the results of his examination of the books of the Spring Valley Water Works. This report is to be found on page — herein. He said that he had had no connection whatever with the company, and was called in and the books were turned over to him for the purpose of ascertaining the cost of the works. He had no instructions as to the principles which should regulate him in his work. His only instruction was to ascertain the cost. He employed his own assistants—two competent book-keepers—and had been constantly engaged with them more than two months in the undertaking. He regarded Exhibit C as the correct statement of the cost of the works, viz: \$ . The principles upon which this cost is ascertained are correct, and are such as would regulate any business man in estimating said cost.

Mr. Pope, on being questioned by the Chairman, stated that he was entirely unhampered in his work by instructions from any one as to the mode of making up the cost, and was

allowed to pursue his own course with entire freedom. "I did not imagine," he said, "when I entered into this work the great magnitude of my labors or the exertions made by the company itself. I did not understand till now

### THE WISE FORESIGHT DISPLAYED

By its projectors in the construction and maintenance of works to meet the future needs of the city, and how, by a comparatively small expense, an unlimited supply of water has been secured for the city. In fact, the heavy expense has been incurred in laying a foundation for the future, and the revenues which they have received are but a slight compensation for what they have done. I state this in all sincerity, as the result of my labors, which have been done dispassionately and uninfluenced by fear or favor. I discover from my investigation that the profits of the company from its origin have been absorbed in the improvement and extension of its works, calculating on an increase in consumers which the future has verified; and they are now enabled by an expenditure of, say, \$12,000,000 or \$14,000,000, in addition to what has already been done, to furnish a supply that would cost New York, with its facilities, over \$50,000,000. He said that he entered upon his duties with a measure of

### THE POPULAR PREJUDICE

Against the company, but his labors had entirely obliterated his unfavorable opinions. He considered that an actual investigation would satisfy any man that the corporation did not exercise the greed attributed to it by foes unfamiliar with its affairs. Mr. Pope also presented to the committee a comparative table of incomes of diverse banking and insurance corporations during the past five years prepared by him from the *Journal of Commerce*, and other journals, which will be found herein, on page 33, and each of the companies cited showed a rate of interest upon invested capital far in excess of any compensation paid or expected to be paid by Spring Valley to its stockholders.

To Mr. Newlands--The San Francisco City Water Works were begun in 1858, and the Spring Valley Water Works in 1860. They were consolidated in 1865. Up to that time the San Francisco City Water Works had paid \$69,000 in dividends, the Spring Valley nothing; the receipts were invested in the works.

### COLONEL G. H. MENDELL, U. S. ENGINEER,

who has made himself thoroughly acquainted with the water question, and has embodied the result of a protracted research upon the subject in an elaborate report to the Water Commissioners appointed four years ago, spoke as follows in reply to numerous queries:

As engineer for the Water Commissioners four years ago, I made a report giving my estimate of the cost of supplying San Francisco with water from available sources, near and distant. I estimated the cost of iron, which is a very essential element, as the only way water can properly be brought here is by wrought-iron pipes, at four cents a pound. Iron has since materially advanced, and therefore my estimate must, in this particular, be correspondingly increased, particularly as to the more distant lines. But I may state it, as a rule, that the cheapest system of water supply is the one that derives its supply nearest to the city. In my report, I estimated the cost of supply from various sources--the Blue Lakes, the south fork of the American River and several others. The Blue Lake scheme was the one most acceptable to the commissioners. I estimated the cost at \$18,-399,200. I consider the Spring Valley system

### THE NATURAL SYSTEM

For the supply of this city, and I think that to bring water from a more distant source would be a greater expense than the Spring Valley would be. Exactly what the Spring Valley would cost to replace it, that it is difficult to say. I do not think you can find on the peninsula any system to rival the Spring Valley system--that is, of what theirs is capable of. If you assume that to be the case, you have got, then, to go round on the other side of the bay to these great watersheds that come from the Sierra Nevada, and you have

there your choice from the San Joaquin, the Blue Lakes or the Stanislaus River. You have further, the Clear Lake and the Putah Creek sources, both 70 or 80 miles to the north of San Francisco; but as to the first three the cost is very large, and as to the second there is this serious objection: you are obliged to cross the bay of San Francisco to get there, and in the present state of our knowledge that is a very serious obstacle. The first ones have the disadvantage of being distant, while the Spring Valley is peculiarly valuable by

#### ITS PROXIMITY TO THE CITY,

And I do not think any one would undertake the north scheme on account of having to cross the bay; it is too hazardous. I estimated the total cost of the Blue Lake scheme at \$18,390,200 to supply San Francisco with 22,000,000 gallons daily. In proportion to increase of supply the cost would increase. The Spring Valley company could increase their supply at a much less cost than the Blue Lakes proprietors. The difference in the cost of the two schemes would vary as the supply would be increased, and the comparison would be in favor of Spring Valley. *I think the Calaveras property an indispensable adjunct to Spring Valley, and they did wisely to obtain it.*

Mr. Newlands—Isn't it safe to say that 22,000,000 gallons daily cannot be brought into San Francisco from any source of supply other than Spring Valley for less than \$18,300,000?

Colonel Mendell—Yes; I believe so. The difference in the water supplies on the peninsula depends on the reservoirs you have. You may have all the country in the world, but if you do not have the reservoirs you cannot have any water supply. And there is where the great advantage in Spring Valley lies, in

#### ITS LARGE RESERVOIRS,

Founded at suitable points, and if they did not exist the city would have to go to the side places to get water or else move herself somewhere else. I think that for as long a time as we can anticipate now, the Spring Valley works will be able to give the city an adequate supply of water. In my former calculation of the daily capacity of Spring Valley, I did not obtain it by taking the average rainfall, but I based it upon the lowest amount of rain likely to fall as derived from our rain tables, thus giving in reality a minimum figure in order to secure my data against any future contingency; in other words, I based the estimate upon its capacity during two years when they would not get any water in their reservoirs at all, thus assuming the worst case that could happen. The test was a very severe one, but there can be no disappointment then for the public. On that basis I estimated that Spring Valley had a source of supply equal to a supply of 80,000,000 gallons daily, or, in other words, sufficient to supply 1,300,000 people. By an expenditure of \$1,000,000 in connecting the Crystal Springs reservoir with the city, Spring Valley can supply between 19,000,000 and 22,000,000 gallons daily. I think the city ought to own Spring Valley, but I don't pretend to say what price they ought to pay. The Spring Valley system is the supply for this city. I have studied this question for a long while, and that is my final conclusion on the matter.

The committee adjourned subject to the call of the chair.

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APRIL 13TH, 1880.

SUPERVISOR BAILEY IN THE CHAIR, AND MESSRS. LITCHFIELD, STETSON, DOANE AND EASIMAN PRESENT. CHARLES WEBB HOWARD, FRANK G. NEWLANDS, AND HERMAN SCHUSSLER ON THE PART OF THE COMPANY.

A COMMITTEE FROM THE REAL ESTATE ASSOCIATION, CONSISTING OF JUDGE M. W. LAMB, COL. C. L. WELLER, G. W. FRINK, AND DAVID BUSH, GIVE THEIR VIEWS.

In calling the meeting to order, Mr. Bayly said that he had invited the Real Estate Protective Association, a body of representative tax-payers, to send a delegation to the Committee meeting to present the Association's views on the subject under consideration. The Executive Committee has appointed a sub-committee, from whom we will be pleased to hear.

Messrs. Frink, Bush, Weller and Lamb appeared as such committee.

J. D. Walker, of the mercantile firm of Falkner, Bell & Co., was invited to address the committee. He said: The city ought to pay for part of the water consumed, but could not say what proportion. I regard 9 to 10 per cent. (in addition to operating expenses) as a fair rate of interest upon a just valuation of the works. I should estimate the value by what it would cost to bring into the city an equal supply of water. Previous offers by the company can form no criterion of value, as there may have been special reasons for the offer at that time which do not exist at the present crisis.

George W. Frink, a member of the Committee of the Real Estate Protective Association, spoke for the Committee in substance as follows: We handle the question upon the ground that the cost of the works has nothing to do with it. The cost of running the works is the question. By the Company's figures it was for last year \$1,257,000. Now the money paid for water should come half from the city, and half from the rate payers. The lowest price charged for water at any dwelling house is \$2. There are a number of houses that rent for \$10. Then the water rate is twenty per cent. of the rent. It costs more than potatoes. There are now 18,000 rate-payers. They pay about 3 mills on the dollar, water rate. Let him pay 1½ mills directly and the city pay the other half. By such a tax the rate-payer will pay half a mill more. Money in bank and stock on shelves pay no water rate. We know of no better way than that. I don't like the Company's figures. We don't care what the Company's works cost. The Company is entitled to a fair remuneration. We have been schooled for years in antagonism to this corporation, and in fact all corporations. We seldom read a paper that says anything favorable to this company. So it is possible that we may be unconsciously prejudiced against it. We want to have the matter settled and out of politics. The city ought to own her water. The property should be valued, a rate of interest established, and bonds given the Company. I would like to have them payable in a thousand years, but the Constitution limits it to twenty. When they expire, issue new bonds. The city never need pay anything. These bonds would sell better than United States bonds. Then the city would collect the water rate, using the money for the interest on the bonds and extending the works.

Mr. Litchfield—You say in your first scheme that the city can pay half the amount paid for water. You understand that we cannot do that unless the Legislature passes an enabling act. The only amount we can pay is for the water used for municipal purposes.

Mr. Frink—That puts a different face on the matter. Will you pay for water used by the city at the same rate charged customers?

Mr. Bayly—According to the Constitution we would be obliged to fix a rate for the city.

Mr. Frink—The works are precarious and inadequate. A large main should go into the southern part of the city and around it, following the bends of the water front, for protection against fire.

Mr. Newlands—The Constitution says that a rate shall be fixed for the city and the inhabitants thereof. I don't think the city could pay half the amount. Indirectly, the city might fix a rate for flushing sewers, use in the parks, in public buildings, and a rate for hydrants, that would amount to one-half the total received annually by the company.

Mr. Frink—That would amount to the same thing.

Mr. Bayly, speaking upon Mr. Frink's idea that the city should pay half the water expense, said, suppose the company wants to make an extension of the works, what will it do? The Company has no money. It pays its earnings out for dividends and in operating the works. If the company wants to build a 3-foot pipe at a cost of \$200,000 or \$300,000, it would have to borrow the money.

Mr. Schussler suggested that the surplusage of the amount paid into the City Treasury for water be used for an improvement fund.

Mr. Frink—That would throw the account on to the city.

Mr. Schussler—in connection with this improvement we should pay \$1,000,000 to connect the Crystal Spring reservoir. How would we pay the amount? If the company borrowed \$1,000,000 would the city guarantee the interest as the additional expense they will be compelled to incur.

Mr. Frink asked if it was necessary now to bring the water from Crystal Springs for this year, and if the present supply was sufficient?

Mr. Schussler—Water received from Crystal Springs would help in case of fire. It would not be of any especial use in winter, but in the summer the pipe from San Andreas can only bring about 9,000,000 per day, which is not enough. We depend largely on Pilarcitos and Lobos creeks.

Mr. Newlands—Do you consider this business hazardous?

Mr. Frink—All business is hazardous.

Mr. Newlands—Suppose half the city were destroyed by fire?

Mr. Frink—if the city is destroyed by fire or earthquake you would not be apt to get much.

Mr. Newlands—Then we have no guarantee against loss.

Mr. Frink—As much as any citizen.

W. H. L. Barnes—But the city does not step in and set the price at which other citizens shall sell their goods.

Mr. Newlands asked what rate of interest should be paid to the Company.

Mr. Frink replied that money here varied from four to eleven per cent. The Company should receive neither the biggest nor the lowest. The company, I believe, pays eight per cent. The city might pay the same.

Mr. Litchfield—Shall we add improvements to the estimate of value, the Company doing the work, and pay them the same rate of interest?

Mr. Frink—That seems fair.

Mr. Schussler being asked if there was an abundance of pipe laid in this city, replied that there was plenty of pipe for consumers; for protection against fire there should be more.

Mr. Schussler continuing said that in Virginia City it was suggested that the pipes were too small for protection against fire. A large fire afterwards occurred, and millions of property was burned. After the fire, some \$125,000 was appropriated and a large pipe laid. The city owns the pipe. For a small amount the Water Company keeps the pipe full of water and it is not used for any other purpose than fire. He said that he gave this instance to find the interpretation of the word "use." Is not the water lying in that pipe, though perhaps not used for months, used, and should not the Company be paid for the use?

Mr. Bayly—The only solution, seems to me, is to buy the works.

Mr. Frink concurred with Mr. Bayly's opinion, and reiterated his system of giving bonds, etc., as described above. The matter should be under the direction of the Board of Supervisors, and kept out of politics. He thought that the revenue received by the Company for the last year would be a fair basis of computation.

C. L. Weller, another member of the Protective Association, agreed with Mr. Frink.

He believed the Company should have, in addition to operating expenses, a fair rate of interest on a just valuation of its works. The trouble here is that property pays no portion of the cost of our water supply, and the city pays nothing for the water it uses, or for the water kept in readiness for protection against fire. He considered that the way to determine the value of the works was to ascertain what it would cost to bring an equal supply from some other source, and the works might be worth more or less than their cost.

Mr. Stetson inquired if the city had not in the past paid for the water consumed by it.

Mr. Howard replied that the city had paid \$6,000 in 24 years. He acknowledged that the Company held unsatisfied demands against the city for water furnished to it.

Mr. Stetson saw no difference between a demand and a payment, but Mr. Howard said that the company thought there was a great deal of difference between a cash payment and a contested claim.

Mr. Stetson—The city should pay for water used, and a citizen should do the same.

Mr. Howard—Will you pay nothing for protection against fire?

Mr. Stetson—The Company is more interested in that than anybody else. I can have my goods insured; but you cannot, and if the city burns down you lose your revenue and property. It is your interest to protect the city.

Mr. Howard—Suppose there were no water protection from fire, you would have to pay at least  $1\frac{1}{2}$  per cent. more insurance rate; and why should you not pay for that?

Mr. Stetson—if there were no protection from fire, I would not bring my goods here. I would not take my property to a place where there was no police protection.

Mr. Howard—You pay for that police protection by direct tax, and why should you not pay for protection from fire?

The question of payment for protection from fire in other cities was lengthly discussed, Mr. Howard saying that four-fifths of the entire amount paid in New York for water was for protection against fire.

Mr. Stetson—What protection does unimproved property get?

Mr. Newlands—You can't levy a general tax without making it fall heavily on some. The people at the Ocean House have to pay their portion for lighting the streets of the city.

Mr. Howard—We don't claim that vacant property is protected, but that the value of all unimproved property in the city is increased by our abundant and efficient water supply.

In reply to a suggestion from Mr. Schussler, Mr. Bayly said that when the Board fixes a rate for each hydrant it is virtually paying for the protection against fire afforded by the Company.

Judge Lamb and Mr. Bush thought it would be difficult to determine the question of value, but the Board should fix the amount of income to be allowed the Company, and then fix half upon the consumers and half upon the city at large. Judge Lamb deprecated the

#### PRESENT MODE OF COLLECTING RATES,

And advised the levy of a general tax under authority from the Legislature to pay for the water used for municipal purposes. Under present circumstances he thought the only solution to be the fixing of a rate upon hydrants, and for water used by the city for municipal purposes to bring relief to the oppressed consumers.

Mr. Heller, upon request, gave his views to the Committee. He said: I own considerable property in this city. I believe that property should pay a just proportion of the cost of water, by the levy of a general tax upon it. The value of property is enhanced by the protection the water affords against fire. I do not think that the consumers alone should pay for this protection. When you make property pay its share of the cost of water you are reaching the man with money and assisting the poor man without it.

#### A CURIOUS QUESTION.

Mr. Stetson asked the Committee to suppose a case where a man pays \$5 a month for water and his rates are reduced by the Board to \$2.50, and the tax levied for cost of water on his property is \$30, how would that benefit the rate-payer? He was antagonistic to such a mockery, as he deemed it. If that is more equitable, why not collect the entire revenue from taxable property?

Mr. Howard said the hypothesis of the gentleman was incorrect, as a case could scarcely exist where the tax on the property would be equivalent to one half of the rate; he did not believe such an instance could be found in the company's business. The tax on stores and large warehouses and their contents, added to the rate, might amount to more than the present rate, but the more they paid the less the small householder would pay, and thus the burden would be more equitably distributed. He knew an instance where a man had property in the city that was assessed for \$185,000; that only \$85,000 of it was improved, and which was occupied by some forty or more tenements, the water bills for which amounted to \$97.50 per month, or \$1,170.00 per annum. Now, if  $\frac{1}{4}$  of 1 per cent were levied on the taxable values in the city, it would amount to fully one half of our gross income, and if the amount resulting from the said levy was paid to us, we would reduce the rates one half; this \$185,000 worth of property would then pay a tax of \$462.50 per annum, and only one half of the present water rate, which would be \$585, making a total of \$1,047.50, a saving of \$122.50 per annum to this party who has \$100,000 worth of unimproved property and \$85,000 worth of improved property. Property should not be made to bear the entire burden of the cost of a city's water supply, as it is unfair; but insomuch as it derives a much larger benefit than all the other uses combined, it should bear its proportion of the burden. It should certainly pay something for value received, and not enjoy the fruits of work it in no way pays for.

### EXPERT POPE'S FIGURES.

Colonel A. J. Moulder stated that he was an expert accountant, that he had examined the report submitted by Mr. Pope, and entirely coincided with the method adopted by him in arriving at the cost of the Spring Valley works. In theory, I believe it to be faultless. I discovered several errors, made in transferring monthly balances to the final papers continuing the recapitulation, but I found no error of addition or calculation of interest. These errors amount to \$153,825 61, including interest of ten per cent. This, no doubt, arose from the haste in which the work was done. The scope and magnitude of the labor would reasonably require nine months' work, and Mr. Pope's exhibits are remarkably accurate for the time allowed him. Mr. Pope is well known in this community as a thorough business man, and a careful, competent, and conscientious accountant. I have examined his exhibits, and regard exhibit C as the correct mode of ascertaining the cost. The cost by that exhibit is \$18,840,202.37, but this is subject to the deduction of the errors which I have enumerated, amounting to \$153,825.61.

The Committee then adjourned to the call of the Chair.

MARCH 24th, 1880.

PRESENT—SUPERVISORS BAYLY, WAITNEY, DOANE, FRASER, EASTMAN AND MASON, CHARLES WEBB HOWARD AND HERMANN SCHUSSLER, OF THE SPRING VALLEY COMPANY, AND W. H. L. BARNES AND F. G. NEWLANDS, THEIR COUNSEL, ALFRED WHEELER AND OTHER CITIZENS.

### VIEWS OF MR. BRADBURY, ALFRED WHEELER, AND MR. HANCOCK.

The chairman said that he had called the meeting because he had received from the President of the company a note stating that the expert who had been employed upon the books for the purpose of ascertaining the actual cost of the property of the Spring Valley Company had finished his work, and was ready to report.

Mr. Howard said that was true, but the expert had found that he was not quite ready, contrary to his expectation, but would be at any time after to-day. Mr. Howard said that the chairman had at the last meeting remarked that the committee had not heard anything from the Spring Valley Company as to its cost and what they thought they ought to have as interest on their investment. He had prepared a statement on these points, which he proceeded to read, and which will be found on page 23.

In answer to a question by Mr. Wheeler, Mr. Howard said that the estimate of cost which he had read included the original company and works, of which Spring Valley was an outgrowth.

### METERS ON PUBLIC BUILDINGS.

Mr. Bradbury contended that, as a matter of justice, meters should be placed on all public buildings used in the city, and the city should pay for the water used for these and other public purposes by municipal tax, the payment to be based on the quantity of water actually used for such purposes. If it were practicable, he thought, everybody should pay by meter rates, which was the only plan that would be just to all classes of consumers. He conceded that 9 per cent. was little enough profit for an investment in this kind of business. Considering risks, taxes, etc., 8 per cent. on such a business was not as good an investment for capital as United States four per cent. bonds. He was in the business of furnishing water to several blocks, and would not go into the business unless he thought he could see at least 9 per cent. profit on his investment. He thought the company should be allowed 9 per cent. on the actual value of the property, and in estimating value upon which to fix the proper income, he would fix it as near as possible to actual cost, less depreciation by wear and tear.

Alfred Wheeler gave it as his opinion that all property benefited, either by protection or otherwise, should pay for the water and not the 17,000 consumers alone.

Mr. Hancock said that he saw lawyers present on behalf of the Spring Valley, and he would like to ask whether the Board, or the tax-payers for whom the Board was acting, had any lawyer.

The Chairman said they had not, and Mr. Hancock said he thought it was hardly a fair deal. He thought that Spring Valley should recognize the fact, as everybody else must, that these were hard times, and consent, in view of that fact, to something a little less than the ruling rate of interest on their investment, at least temporarily. They should make some concessions to hard times. He didn't think vacant lots should pay taxes for any part of the expense of furnishing water for purposes which it did not use or enjoy any benefit from. In regard to a tax for water used for fire purposes, he understood that the company was bound by its charter to furnish water free of charge for these purposes.

Asked by the Chairman whether the existence of an adequate water supply was not a benefit to all property, improved or otherwise, because such protection enhanced the value of property for building purposes, even though it were not directly utilized, Mr. Hancock said yes; and by the same rule, he considered that the value of property in San Francisco was benefited by the presence of himself and every energetic, well-behaved citizen; but he didn't think the city should make him any allowance for living here and thus enhancing the value of property.

Barnaby Doherty suggested a scheme of putting the water supply on the same basis as the public schools. Declare it a public use, as it is; determine how much the Water Company is to be paid every year for furnishing water, and that amount should be added to the amount of tax to be raised, just as the school fund is, and collected on the assessment just as every other public expenditure is provided for.

The Committee adjourned to meet at the call of the Chairman.

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## MAJORITY REPORT OF THE COMMITTEE ON WATER AND WATER SUPPLIES.

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*To the Honorable Board of Supervisors of the City and County of San Francisco—*

GENTLEMEN: Your Committee on Water and Water Supplies, to whom was referred the matter of ascertaining and reporting their conclusions to your honorable board as to the rates to be paid by the inhabitants of this city and county for water supplied for their use, with the several orders proposing certain rates, would respectfully represent that your committee have invariably invited all the members of the board to attend all the meetings held, so that the questions involved might be considered by all the members, and lead to a solution and just determination of this question in the public interests, and so that a valuation basis may be established to compute, determine, and insure just rates for the present and future wants of this great and growing city.

Under Article 14 of the new Constitution, the rates or compensation to be collected by any person, company or corporation for the use of water supplied to any city and county, or to the inhabitants of any city and county, are required to be fixed annually by the Board of Supervisors.

The City and County of San Francisco, and most of its inhabitants, are supplied with water by the Spring Valley Water Works. Small portions of the city are supplied by artesian wells owned by Mr. Bradbury and Mr. Warner, but neither of the latter supply any water to the city for the extinguishing of fires or for flushing the sewers, though both express their willingness to do so.

As these individuals supply but small portions of the city, and as the rates which would be just to the Spring Valley Water Company would also be just to them, your committee will present their views as to the principles which should control the action of the city toward the company.

In response to a general invitation to the public to appear before the committee, many citizens appeared and presented their views as to the rate of interest, value of the works, and principles which should regulate the fixing of rates.

#### NATURE OF BUSINESS AND RATE OF INTEREST.

As to the interest to be allowed, Mr. Claus Spreckles stated that he would not invest a dollar in an enterprise of this kind unless he received 12 per cent., and that in view of the risks, natural wear and waste, he regarded the business as a hazardous one, adding: "I do not think the company's revenue can be safely diminished; a serious accident happening might reduce the interest from 12 to 6 per cent."

Ex-Governor Low said: "I would not be willing to invest in such property for anything like the rate I would in bonds when they run for a definite time, properly secured and providing for an interest payable annually. In other words, I would not purchase Spring Valley stock unless it paid a very much larger dividend than would the bonds of the company secured by a first mortgage upon the property, and running for a definite term—say 25 years at a fixed rate of interest. I would prefer the bonds at 5 per cent. rather than the stock at 8. I consider, too, that the property is liable to be affected by the contingencies of the elements. An earthquake

or a sweeping conflagration would cut off a large portion of the revenue for probably some time afterward. It is the hazard of the business which renders its income unstable, and I would prefer well-secured bonds, running for 25 years, at 6 per cent., rather than the stock at 9.

In reply to the inquiry as to the reason why 4 per cent. U. S. bonds were bringing \$107½, while Spring Valley stock, paying 8 per cent., was bringing only \$85, Governor Low replied that in the case of the Government bond the security is ample, and the bonds are free from taxation, while the Spring Valley stock is not. "But above and beyond that is the stability. Capital is timid. You may call it cowardly; it runs at the slightest provocation. It seeks stability more than it does a large rate of interest. If the city government would guarantee 5 per cent. for 28 or 30 years it would make the stock a better investment. \* \* \* In that event, however, the city would assume all the risks and hazards, instead of the company. Should the city establish certain rates, it would be no guarantee of income to the company."

John Perry, Jr., a well-known dealer in bonds and securities, said: "The reduction of interest will hurt the stock. When the company reduced its interest from 9 to 8 per cent. it caused great complaint. The interest should not be reduced because of the contingencies. The overflowing or breaking of a reservoir would subject the company not only to the loss for repairs, but for damages occasioned to adjoining land. The company should have a good rate of interest, not less than 10 per cent., and probably 12, when you bear in mind the risks and uncertainties, and the future needs of the city."

Mr. J. D. Walker, of the firm of Falkner, Bell & Co., considered the business a hazardous one, and regarded 9 to 10 per cent. in addition to operating expenses as a fair rate of interest upon a just valuation of the works.

Mr. Bradbury, the owner of artesian wells in competition with Spring Valley, thought the business a hazardous one, and 9 per cent. a reasonable rate of interest, stating that he would not be content with that rate in his artesian well business.

A committee from the Real Estate Protective Association, consisting of Messrs. Frink, Lamb, Weller and Bush, had

little to say on the subject of interest, but did not think 8 per cent. unreasonable. They thought the chief difficulty in the present system was in the inequality of the apportionment of the rates as between the city and the consumers, and that this should be remedied by compelling the city to pay one-half of the total income, to be derived by the company for the water used for municipal purposes and protection against fire, and by so doing reduce the rates to the 18,000 ratepayers one-half.

The prevailing sentiment or opinion of those who appeared before your committee accorded with the foregoing. It is true that Mr. Dougherty and Mr. Haneock presented different views, the former to the effect that the interest allowed should correspond with that allowed on United States bonds and with that on county bonds, from 4 to 6 per cent., and that the whole amount to be paid the company should be paid by the city, and raised by taxation, as for other municipal purposes; the latter claimed that the interest of the company ought to be diminished to correspond with the depressed condition of the times. But United States bonds are free from taxation, and have the honor and property of the whole country as security, while the bonds of the city and county are secured by all the wealth of San Francisco. It is a financial axiom that the rate of interest increases as the security diminishes. If San Francisco should issue its bonds at 6 per cent. to the Spring Valley Water Company for the purchase of its works, they would doubtless be taken at par, but the company would have as security for the payment of the principal and interest of the bonds, not only the water works, but all the taxable property of the city and county; and if that was the case, the city would run all the risks in the connection with the business of conducting the works. If the city expects that the income of the company should be limited to 6 per cent., it must possess the power to guarantee the income and assume all the risks of the business.

The proposition to raise by taxation the whole amount to be paid the company, for all the water supplied, would, in our opinion, be as unjust to property as the present system is to the ratepayers.

It also appears in evidence that Spring Valley Water bonds, amounting to several millions of dollars, bearing interest at

6 per cent. and secured by a first mortgage on the works, were recently offered here and in New York and London, and the best offer that could be obtained was  $87\frac{1}{2}$  cents on the dollar. This made the real rate of interest on the bonds for the term for which they were issued over 7 per cent. Ex-Governor Low was of the opinion that as the bondholders have the best security, the stockholders have only the surplus after the bondholders are satisfied, the stockholders ought to receive at least three per cent. more than the bondholders. If this conclusion is correct, the rate of interest to which the company is entitled would be 10 per cent.

Your committee are satisfied from our investigation that the business must be classed as hazardous, and is subject to contingencies, in the matter of competition and otherwise, which entitle it to a rate of interest in excess of the rate prevailing upon mortgages or other first-class securities. In view of the hazards connected with the business, and the enterprise and skill required in its conduct, and the absolute duty on the part of the board to make it a desirable investment, so as to insure its efficiency for the protection of life and property, your committee are of the opinion that the income of such a business is not unreasonable so long as it is confined within the limits of between 8 and 10 per cent. upon a fair valuation of the works, in addition to operating expenses.

The next question to be determined is, upon what amount does the present income of the company yield the foregoing rate of interest, in addition to operating expenses. The income of the company during the last year was, in round numbers, \$1,258,000, which was expended as follows:

Running expenses.....	\$300,000
Interest on indebtedness.....	287,000
Dividends to stockholders, 8 per cent. on \$8,000,000....	640,000
	<hr/>
	\$1,227,000

Leaving a surplus of about \$31,000.

A detailed statement of the operating expenses was presented to the committee.

Upon being questioned as to the statement appearing in one of the volumes of the Municipal Reports that the running expenses of the works were only \$100,000, the president of the company replied that the statement referred to only cov-

ered the office expenses and salaries; that it did not cover all the operating expenses of the works; adding that the estimate of \$300,000 per annum for operating expenses was a low one, and that they had amounted to more during the two previous years. The engineer of the company, Mr. Herman Schussler, also stated that it would not be safe to estimate operating expenses at less than \$25,000 per month.

Assuming, then, that \$300,000 is a proper estimate for operating expenses, and deducting this amount from the total income of the company of \$1,258,000, we have \$958,000 as net revenue of the company, which the present rates enable it to collect. This amount, \$958,000, is 8 per cent. upon \$11,975,000, 9 per cent. upon \$10,650,000, and 10 per cent. upon \$9,580,000. Are the Spring Valley Water Works worth either of these amounts? If not, the revenue should be diminished, and the rates correspondingly reduced.

What, then, is the value? The solution of this question is attended with considerable difficulty.

A variety of views have been urged before the committee as to the correct mode of ascertaining the value of the works.

#### MARKET VALUE OF STOCKS.

By some it was insisted that the value should be determined by taking the aggregate market value of the stock and adding thereto the bonded indebtedness of the corporation, amounting to \$4,000,000. During the examination had by your committee the stock has varied in price in the market from \$83 to its present value, \$94 per share. If the market value be estimated at \$64, this mode of calculation would establish the value of the works of the Spring Valley Water Company at \$11,520,000. Others were of the opinion that the market value of the stock is no indication whatever of the value of the works. It appeared by the testimony of Mr. John Perry, Jr., a dealer in bonds and securities, that the stock of the Spring Valley Company since 1875 has fluctuated from \$110 to \$83 per share. This latter depression, he said, was owing to the adoption of the new Constitution; also, that the stock had always been held as an investment by parties seeking an income on their capital; that seven-eighths of the stock sold passed through his hands, and that very little stock had changed hands at these low prices. He further stated that the action of the Water Commissioners in 1877 affected the stock, and when the commissioners reported in favor of

Blue Lakes it sold at \$83; that the abandonment of that scheme ended the agitation, and the stock went up to \$90 and \$95.

It was also shown in favor of this mode of determining value that in London, recently, when it was proposed to condemn the water works there, the authorities provided for taking the property at the market value of the stock, but further inquiry developed the fact that the water companies there were guaranteed an interest of 10 per cent., although the prevailing rate of interest there is from  $2\frac{1}{2}$  to 5 per cent. Such a high rate of interest had the effect of making the market value of the stock many times its par value. Therefore this was a liberal valuation there.

The difference between the two cases is, that in London the stock of the water companies has been protected by allowing them a fixed and liberal rate of interest, and consequently the market value of the stock was greater than the value of the works, whilst here the popular impression that the high rates were due to the extortion of the company instead of the unjust system of collecting the entire revenue of the company from the rate payers only, letting property go free, has produced an agitation of the water question which has depressed the stock below its real value. Although these fluctuations have varied from 110 to 83, certainly the intrinsic value of the water works has not thus fluctuated. We must look, then, to some other standard to measure their value.

#### PAR VALUE.

By others it was suggested that the works should be valued by taking the par value of the stock and adding thereto the indebtedness, which should make the works worth \$12,000,000.

Your committee do not think this furnishes any absolute standard of the true value of the works. As corporations are organized, the value of their property may be either greater or less than the par value of their stock. If the par value of the stock be taken as the measure of value, then that value might be doubled by simply doubling the stock. Thus, for instance, the stock of Spring Valley was doubled in 1876, though the extra \$8,000,000 of stock has not been issued. To take either the par value of the present issue, viz, \$8,000,000, or the par value of the increased stock, viz, \$16,000,000, would in our opinion be arbitrary.

It was also stated that the works had been offered in 1877 to the city for \$11,800,000. The officers of the company, however, say that this was unauthorized, and the fact seems to be established that no such offer was authorized by the company. The lowest offer made by the company was \$13,250,000. This was made in 1877, and it is claimed by the officers of the company that \$500,000 have been since expended on the construction of works. As to the estimate of value based on this offer, the president of the company, in a communication to the board, makes the following statement:

"It is true that, in 1877, the company proposed to accept from the city for its property and works the sum of \$13,250,000. That proposition was not based on the company's estimate of their value, nor was the sum named at all commensurate with the real value; but it was founded on the company's preferring to consent to sell on terms involving a loss rather than risk the result of hostility or competition by the city, which might seriously cripple it. It may be as well to remind the committee that a price set upon property when its future was imperiled, by circumstances not necessary to be reviewed here, is something very different from a fair and just valuation of the same property sought to be arrived at for the purpose of establishing by law the revenue of the company. Since that time the company has expended on improvements \$500,000."

Your committee can not justly dispute these reasons, for no man is bound by an offer which is not accepted. The offer, it is understood, was made as a reduction of a previous offer made by the company of its works for \$16,000,000, and at a time when it was feared that other and more costly schemes would be accepted by the city, which would diminish the value of Spring Valley, and when there was every inducement to compel the company to make its lowest offer.

#### COST OF WORKS.

As to the cost of works, John F. Pope, a competent expert, has recently made a thorough examination of the books of the company. He submitted an exhibit marked "Exhibit C" as a correct statement of the cost of the works—namely, \$18,840,202.37; and stated that the principles upon which the cost was ascertained were correct, and were such as would regulate any business man in estimating such cost. He further stated—

"That the different increases of the capital stock of the company substantially conformed to the expenditures made; that the Spring Valley Company was organized June 10, 1858, with a capital of \$60,000, which was increased June 16, 1860, to \$3,000,000; that the San Francisco City Water Works was organized in August, 1857, with a capital stock of \$1,500,000, which was increased June, 1864, to \$2,000,000; that these two companies consolidated in February, 1865, with a capital stock of \$6,000,000; that the cost of the works of both companies up to that date was \$5,551,429.89;

that up to that date the Spring Valley had paid no dividends, and the San Francisco City Water Works had paid about \$69,000, with this exception the receipts of both companies have been invested in the works; that in March, 1868, the capital stock was increased to \$8,000,000, cost at that time \$7,969,710.36; that in July, 1876, the capital stock was increased to \$16,000,000, and that the cost at that date was \$16,245,659.30."

Mr. Pope's statement was verified by two bookkeepers, both as to the computation and the principles upon which the cost was ascertained, and by Col. A. J. Moulder, who stated that he had examined his report, and entirely coincided with the method adopted by him, saying:

"In theory, I believe it to be faultless. I discovered several errors which amounted to \$153,825.61, no doubt arising from the haste in which the work was done. The scope and magnitude of the labor would reasonably require some months work, and Mr. Pope's exhibits are remarkably accurate for the time allowed him. I have examined his exhibits, and regard 'Exhibit C' as the correct mode of ascertaining the cost. The cost by that exhibit is \$18,840,202.37, less deductions of errors which I have enumerated, amounting to \$153,825.61."

As to the estimated value based on cost, your committee believe that while the cost may be taken as an element in determining the value of the works, yet it does not go to the extent of furnishing an absolute standard, for property may be worth twice as much as it cost, or it may be worth only one-half of what it cost.

#### COMPARATIVE VALUE.

It was stated by other persons who appeared before the committee—among them Mr. J. D. Walker and Col. Weller—that the true way of ascertaining the value of the Spring Valley Water Works was to ascertain what it would cost to bring an equal supply from some other source. Upon this subject Col. G. H. Mendell, of the United States Army, who was employed by the late Board of Water Commissioners, and who made an elaborate report to them, stated to your committee—

That it would cost not less than \$18,300,000 to construct water works capable of supplying San Francisco with 22,000,000 gallons daily from any other source of supply than Spring Valley. That when Crystal Springs shall be connected with the city at an expenditure of \$1,000,000, the Spring Valley Water Works should be able to supply San Francisco with between 19,000,000 and 22,000,000 gallons daily. That the cost of increasing the supply from any other source than from Spring Valley would be much greater than from Spring Valley. That with Calaveras, which he regarded as an indispensable adjunct of Spring Valley, the company could supply the demands of 1,300,000 people. That this estimate was based upon the worst case that could happen—namely, its capacity during two years of drought, when they could not get any water at all in their reservoirs.

The opinion of underwriters who have appeared before us is that Spring Valley affords a system of protection against fires unequalled in this country, and they ask liberal treatment for the company, so as to encourage it in increasing its facilities to protect the city against fire. The evidence is indisputable that the Spring Valley system, as Colonel Mendell terms it, is the natural system of supply for San Francisco; that it possesses great advantages over any other system that could be constructed in cheapness of operation, in efficiency, and in ability to meet the growing requirements of the city; also, in cheapness of increasing the supply. The problem of supplying San Francisco with water was a difficult one. Cities like St. Louis, Philadelphia and Chicago, on the shores of natural rivers or lakes, have only to run a pipe into the river or lake, construct a distributing system of mains and reservoirs, and the works are complete and the supply unlimited. San Francisco is situated on a sandy peninsula, far distant from natural streams; the seasons are dry. It was necessary to construct immense artificial lakes, capable of storing three years' supply, and connect them with the city by expensive pipe-lines and aqueducts. The project required great engineering skill, energy and foresight. The works have, ever since their construction, protected this wooden city from fire.

In view of these facts, your committee believe that the property should be valued as a comprehensive system of water works, constructed for and adapted fully to this particular purpose.

The rule of valuation that applies to all properties is the rule of comparison. If a man wishes to purchase a mill site and mill he ascertains what similar property, with equal advantages in location, proximity to market, etc., will cost. All property depends upon the purposes for which it is or may be used and adapted for its value, and if it is especially suited to the purpose to which it is put it has an additional value. If this rule should be applied to the Spring Valley Works, it is demonstrated by Colonel Mendell's statement that they are worth at least \$18,399,200, less \$1,000,000, the amount necessary to utilize Crystal Springs Lake; but your committee are of the opinion that whilst it can not be claimed that there is no other scheme with the cost of which Spring Valley can be compared—for there are many which are practicable—still, the distance and the difficulties to be overcome in introducing water from other sources are so great that we do not think

this standard should be adopted. Yet it should be considered in arriving at a valuation. We have, therefore, from the foregoing, five estimates of the value of the Spring Valley Water Works:

1st.	The market value of the stock, \$94 per share, with the debts added, making.....	\$11,520,000
2d.	The par value of the stock, with debts added, making.....	12,000,000
3d.	The offer the Spring Valley Company made in 1877, of \$13,250,000, to which is to be added \$500,000, being the cost of construction since that time.....	• 13,750,000
4th.	The cost of the work as per Pope's report, veri- fied by Colonel Moulder.....	18,686,376
5th.	The amount that it would cost to introduce 22,- 000,000 gallons daily into San Francisco from sources of supply other than Spring Valley, as per Colonel Mendell's statement..... From which is to be deducted..... That being the amount necessary to expend in connecting Crystal Springs Lake with the city, in order to make the supply of Spring Valley equal to 22,000,000 gallons daily. Balance.....	18,399,200 1,000,000 \$17,399,200

Which of the foregoing estimates is correct? The fact is, there is no absolute standard of value, and the only way is to take all the estimates named into consideration, and thus arrive at a conclusion as to the value of the works. Your committee are of the opinion that the true value of the works should be fixed at some point between \$12,000,000 and \$17,000,000, the former sum being too low and the latter too high; but they differ as to the precise value, and deem it unnecessary to fix it, for the reason that their only duty is to ascertain whether or not the present income of the company is unreasonable. Your committee have already assumed that a revenue of between 8 and 10 per cent., upon a fair valuation of the works, in addition to operating expenses, is not unreasonable, and, as we have already shown, the company is at present realizing a net revenue of 8 per cent. upon \$11,974,000, 9 per cent. upon \$10,650,000, and 10 per cent. on \$9,580,000. It appears clearly, then, that neither of these amounts equals even the lowest limit which can be placed upon the value of Spring Valley—viz: \$12,000,000.

#### DISCRIMINATION UNDER OLD LAW.

The next question to determine is, whether the burden is equally apportioned; in other words, whether or not any discrimination exists. Under the law prior to the new Constitu-

tion, the company was compelled to furnish water free to the city for all municipal purposes, and during the last 20 years it has collected from the city about \$6,000. In other words, the whole burden of the annual cost of supplying San Francisco has fallen on about 18,000 rate-payers, and they have thus paid, not simply for water used for domestic purposes, but also for all the water used by the city in its public squares and parks, for flushing sewers, and protecting all the property in the city against fires. It would certainly be a matter of complaint if any man or set of men should receive water free whilst others were obliged to pay. It is equally unjust that the city should receive water free whilst the 18,000 rate-payers pay the whole income of the company; there is no discrimination more unfair, more unjust. It is a discrimination in favor of the large tax-payer, and against the poor rate-payer.

So self-evident is this discrimination, that of all those who appeared before us, but one upheld the justice of the present system; all the others admitted that the city should pay, but there was one difference of opinion as to what amount should be so paid. A few contended that the city should pay only for the water it actually used, but almost all contended that the city should pay for protection against fires, not simply for the amount of water used to extinguish fires, but for the protection which property received, and which reduced the rates of insurance, it being claimed that the city should pay for water the protection that water gives, just as it pays for lighting the streets or for police protection. By most it was considered that the city should pay at least one-half, and that this payment should be used to reduce the rates to consumers one-half. These views were presented by Claus Spreckels, Esq., whose pecuniary interests would, if he had been influenced by them, led him to a contrary opinion, for his property is in the main supplied by artesian wells, and also by Governor Low, and they were pressed with great vigor by the committee from the Real Estate Protective Association, and by many others.

It is true that Mr. Hancock urged the point that the obligation of the company to furnish water to the city free of charge was a contract, which could not be affected by the new Constitution. But if this be so, then the entire section of the law in question, which provided that the city should have water free, constituted the contract; and as this section also provided that the rates should be fixed by commissioners—

two to be appointed by the city, two by the company, and the fifth to be appointed by the four—it follows that, if the law constituted a contract and the Constitution could not change it, then this board has no right to fix the rates at all. Your committee have no hesitation in saying that the law which provided so inequitable a system of apportioning the burden of the water supply ought to have been repealed; and we are advised by the City and County Attorney, and by W. C. Burnett, ex-City and County Attorney, and by the Honorable John F. Swift, that it was repealed by the new Constitution, and that under it the city and county is compelled to pay. To those of our wealthy tax-payers who oppose this view, we have only to state our belief that the continuation of so unjust a system will only result in a clamor for the purchase of water works by the city, with the view of compelling property to pay, as it does elsewhere, almost all the cost of the water supply, thus making the rates to consumers merely nominal. Your committee are not, however, prepared to say that the city should pay so large a proportion as one-half of the annual cost—conceiving that it would be sufficient to fix the city's rates in such a manner as to pay about one-fourth of the annual income of the company, and reduce the rates to consumers to that extent. We have, therefore, fixed the rates for fire-hydrants and for municipal purposes so that they will yield this proportion, and have provided, in the order submitted, that when paid monthly by the city to the company, a reduction of 25 per cent. shall be made upon the bills of consumers for the following month.

#### CONCLUSIONS.

Your committee beg leave, as the result of their labor, to report the following conclusions:

*First*—That the principle which should govern the regulation of rates is, that the Spring Valley Water Works is entitled, in addition to operating expenses, to a fair rate of interest upon the value of its works.

*Second*—That a fair rate of interest is between 8 and 10 per cent.

*Third*—That the income at present derived from existing rates, after deducting operating expenses, does not equal even 8 per cent. upon the value of the works.

*Fourth*—That the old system of collecting rates, which placed the whole burden upon the rate-payers, is unjust and inequitable, and is the real cause of the great dissatisfaction with the rates.

*Fifth*—That this system has been abolished by the new Constitution, and that, under the now Constitution, the city is compelled to pay for water for all municipal purposes.

*Sixth*—That the rates of the city should be fixed and established as to yield about one-fourth of the revenue of the company, and that the payments made by the city should not increase the revenue of the company, but should be allowed upon existing rates to consumers, so as to reduce the same 25 per cent.

Your committee recommend the final passage of the order introduced by Supervisor Bayley. It establishes more uniform rates than those at present collected by the Spring Valley Company. It takes as a basis the schedule of rates established by the commissioners in 1878, which fixed the rates for family uses only. As the new Constitution requires that the Board of Supervisors should fix the rates for all purposes, the rates for different places of business heretofore collected have been added to the schedule. In it the provision which requires an additional charge of twenty-five cents for each member of a family over five is stricken out. The schedule of 1878 fixed a maximum in many cases above the rates actually charged.

From this maximum the proposed ordinance deducts 20 per cent. Under the old schedule the lowest value was \$2, with 10 per cent. off, or \$1.80. Under the proposed ordinance the lowest rate is \$1.60, or \$1.20 in case the city pays. It is also provided that the city shall pay \$15 per month for hydrants; \$500 per month for the Golden Gate Park, and \$7,000 for the public buildings.

It is estimated that the city will thus pay about one-fourth of the revenue of the company. It is provided, further, that the amount thus paid by the city shall be applied on the bills of all other consumers for the succeeding month in such manner as shall reduce such bills twenty-five per cent.

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## THE CHAIRMAN'S INDIVIDUAL VIEWS.

[The undersigned, chairman of the Committee on Water and Water Supplies, concurs in the majority report, and begs leave to present for the consideration of the board certain individual views which he holds upon the question.] .

It is evident from the evidence which has been presented, that the revenue of the Spring Valley Water Works ought not to be reduced, and that the present rates which yield this revenue ought not to be reduced, except by allowing on them the 25 per cent. which the city is to pay the company for water used for municipal purposes under the proposed ordinance. It is true that the company objects to the ordinance introduced by the undersigned, upon the ground that it fixes a maximum below some of the rates now collected, and yet does not permit the rates now collected, where they are below that maximum, to be increased to it. It is claimed that this will reduce the present revenue considerably.

The undersigned, in reply to this, says that it has been his object to establish the rates now actually collected, but as the schedule of the old commissioners was in some cases from 10 to 20 per cent. above the rates actually collected, and the rates within the limit varied according to circumstances, it was necessary to reduce the maximum, in order to make the rates as nearly uniform as possible, while it will have the effect of reducing some rates even below the 25 per cent. paid by the city; yet the undersigned is of the opinion that increase of consumers will make up the deficiency. The undersigned is further of the opinion, that while the rates of the proposed ordinance are at present reasonable, and will be so for some time, yet the increase of population will before many years so increase the revenue of the company as to call for a reduction of rates. The income of the company has almost doubled within the past ten years. The great expenditures of the company have been made, and the foundations laid of a system of supply sufficient for the wants of a population of over 1,000,000 of inhabitants; therefore, comparatively small expenditure in the future will be necessary to meet the future wants of our city. Thus, for instance, an expenditure of \$1,000,000 additional, in connecting Crystal Springs Lake with the city, will give a supply sufficient for 300,000 more people.

If, then, the population increases during the next ten years as it has during the past, the present rates will, if maintained,

largely increase the revenue of the company, and at the end of ten years be double what it now is. It is obvious that such an income will be unreasonable and excessive, and in view of the experience of almost every community as to the aggressive nature of corporate wealth, I deem it just to the community to give now my opinion as to the limit of the revenue of the company, so that when it is reached the rates may be reduced and kept within a reliable and definite valuation of the property. The question then is, what is a fair limit as to interest and value? The majority were of the opinion that the limit should be between 8 and 10 per cent. I am of the opinion that it should be 9 per cent. Next, as to the value, five different estimates are presented in the majority report, the lowest based on the market value of the stock, being \$11,520,000, the highest based on cost, being \$18,686,376, the conclusion of the committee being that the works were worth more than \$12,000,000, and less than \$17,399,200.

As stated in the report, there is no exact standard of value. The only way is to take all the estimates into consideration and thus arrive at a conclusion. Taking the five estimates and adding them together, and dividing by five, makes the average \$14,671,115. I am therefore of the opinion that \$14,500,000 is as low a valuation as should be placed upon this property. To this should be hereafter added such sums as the company may expend in the construction and extension of its works when future action is necessary. This determines the value and protects the people by preventing a fictitious increase in value of the works, simply based on an increase of revenue, which would certainly be the case in the future if a basis of value is not established.

I am of the opinion, therefore, that the rates fixed in the proposed ordinance should remain as they are, until the income of the company equals an amount sufficient to pay the operating expenses of the company, 9 per cent. on a valuation of \$14,500,000, and 9 per cent. upon such further sums as the company shall expend hereafter in the construction and extension of its works. The amount so expended can be ascertained every year by the board, and made a matter of record in the Municipal Reports. My belief is, that by thus placing the works of the company upon a fair basis of value, and providing that the increase in population and consumers shall tend toward a reduction of rates, when the income of the company shall equal a certain amount, the increase in the

number of consumers will, after the limit has been reached, gradually diminish the rates instead of increasing the revenue of the company.

CHARLES A. BAYLEY.

### STETSON'S MINORITY REPORT.

Supervisor Stetson submitted the following minority report: The undersigned, a minority of your Committee on Water and Water Supplies, beg respectfully to represent that they report their conclusions as to the rates to be charged consumers for water supplied during the year ending July 1, 1881, by any individual, corporation, company or association engaged in supplying water to the inhabitants of this City and County, and to report in favor of the final passage of the order introduced by Supervisor Stetson, providing for establishing rates at twenty per cent. less than the present rates collected, which has been heretofore passed to print by your honorable Board, as we believe that the proposed rates will afford the Spring Valley Water Works a fair and just revenue, as well as relieve the rate-payers and afford them such reduction as was expected from the implied promise exacted from the members of this Board in the platform which they assented to prior to their election. But beyond this question of duty, it appears that the reduction proposed is one that can be easily determined by the rate-payers, and commends itself particularly from this fact—because it insures a uniform collection of rates and prevents any distinction being made. The question raised, that the order referred to does not fix and establish rates, deserves no consideration, for it is understood to be a legal axiom that any proposition is certain which can be made certain, and the provisions of this order provides to a certainty the amount hereinafter to be paid by any rate-payers as twenty per cent. less than the amount heretofore paid. In the consideration of this matter we believe that it is all-important that the reduction proposed by this order should be made, for while the figures and estimates of expenditure on the part of the Spring Valley Water Company were presented and considered, yet it has not convinced us that with

#### THE INCREASED REVENUE

Consequent on the growth of this City, that the dividends could possibly be reduced to a lower figure than seven per cent. on its stock, and while, to some extent, this business must be classed hazardous, yet it is, as a business, on more

secure basis as to income than any other that can be cited, for it has assured to it all the inhabitants of the City and County as consumers, with no competition to speak of, except a few artesian wells, and any supply from such sources is limited to an extent which places them out of the consideration of rival competitors; therefore, we do not believe that any special consideration should influence your honorable Board to consider the business of supplying water by reason of its being a hazardous business, entitled to a greater rate of interest than could be expected from any other business subject to competition which requires skill, capital and ability, and which is constantly subject to and experiences not alone fluctuations, but the more incisive energetic influences of competitive business rivals in obtaining custom and trade. In our opinion the assured custom and consumption of water is a guarantee to the Spring Valley Water Company, that places its stock as one of the most safe, secure and reliable investments that could be desired at seven per cent., or even less, and preferable to any bonds, whether United States, State, or County, bearing four or five per cent. interest. It must be apparent, however, that the idea, that under the new Constitution this City and County is required to pay for all the water used for municipal purposes, is untenable, for after a very tedious and protracted litigation, it was finally determined by the Supreme Court that the City and County was entitled to water free of charge for the extinguishment of fires, for sprinkling streets and for flushing sewers, and for the public parks and squares. This obligation on the part of the Spring Valley Water Company is in the nature of a contract, which under a provision of the new Constitution remains inviolate, in full force and effect, while the other provisions of the Constitution, which provide for the fixing of rates for water supplied to any City and County, etc., or the inhabitants, is and must be construed for those purposes only for which the City and County is not exempt by reason of any contract or other obligation; in other words, the right of the City and County to free water for the purposes named, as decided by the Supreme Court, is, in our opinion,

#### A VESTED RIGHT WHICH CANNOT BE ALIENATED.

The uses for which water must be paid by the city and county are, when used in our public buildings, hospitals, jails, etc: this allowance is in addition to the amounts to be collected from the rate-payers, and without knowing positively as to what amount the city and county would be

required to pay under this order, as the amount to be paid would be based on the quantity used, it is probably correct to say that it will not exceed \$8500 per month—the amount for which bills have been presented heretofore by the Spring Valley Water Company for those purposes. To the extent, therefore, of the cost of water actually used for these purposes the city and county should pay, and in our opinion, that is all that property should be taxed or compelled to pay; and for the important privilege that the Spring Valley Water Company enjoys, it is but just to the taxpayers that water used for the extinguishment of fires and for public streets, our parks and squares, should be furnished free; the inhabitants, the consumers, paying for the water used by them according to the rates established. There are many important questions bearing upon the value of the Spring Valley Water Works which we refrain from presenting, as to our minds no convincing or conclusive estimate of their value can be determined from the investigations had during the past few months, but we concur in believing that it should be made the subject of intelligent, scientific and comprehensive inquiry, so that a basis of valuation can be arrived at and determined by this Board, and this can only be arrived at, in our judgment, by the appointment of competent and experienced persons as appraisers, who could also bring to the performance of such labor intelligent conception of the value of said water works, based on the property itself and the uses to which it is devoted. While it must be acknowledged that San Francisco depends for her main supply of water simply from catchments and storage of the rainfall, rendering it necessarily expensive, yet it is evident that as the population increases year by year there can be no judicious exercise of power in the public interests to prevent an increase of the capital stock, unless the valuation of the present system is determined and certain principles adopted to prevent a fictitious increase, and to ascertain and base any increase of their value by

#### THE ADDITIONAL AMOUNTS EXPENDED.

Without that or some such action be had, and the question determined, it is unnecessary to state that it is safe to presume that the Spring Valley Water Works will increase their capital stock whenever increased consumption and revenue will afford an opportunity, so as to justify an appeal against any reduction of rate depriving them of a reason-

able rate of interest upon their increased capital stock based on their own valuation of their property. And in the future this appeal will bear as liberal a construction, owing to the increase of the value of their property, as any argument they have already presented.

In presenting these views in somewhat of a crude shape, the minority of your committee desire to state that they are impressed with the importance and the value of the Spring Valley Water Works as the means by which that all-important necessity, water, is supplied for the use of this city and county, and the further necessity for the protecting and ensuring to said company a fair and reasonable revenue, so as to render its stock a desirable investment, and by these means to encourage the efficient keeping of its works and its sources of supply for the protection of the health and requirements of this community as well as to render its business profitable and desirable. Entertaining these views, and believing that wise and judicious action on the part of this Board ought to be had in the solution of this matter, and that no power, however absolute, should be exercised to oppress, or to limit, or to check in any manner the operations of said company by a reduction of the rates to an unfair or unreasonable return on the amount invested ; yet, after mature consideration, we reiterate our belief that the order providing for a reduction of 20 per cent. on the amount now collected would be equitable and just, alike to the company and the people, whose interests are mutually concerned.

JAS. B. STETSON.

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## A STATEMENT

*By the Chairman of the Water Committee of the principles  
which should govern the fixing of Water Rates.*

At the meeting of the Board of Supervisors, on Tuesday evening, June 1, 1880, Bayley's water-rate ordinance being under discussion, its author made the following remarks:

The fixing of water rates has engaged the attention of this board for several months, and it has seemed almost impossible for us to arrive at a conclusion. We have invariably invited the public and the press, and latterly, since the publication of adverse criticisms by two of the journals of this city, have specially invited the gentlemen of the press in or-

der to place before us such information of which they might be cognizant as would be in the interest of this community. After waiting patiently for more than two hours without a person appearing, the committee adjourned. I do not propose to take up any time in discussing the motives of journalists who are so ready to criticize, but fail to face the issue as individuals when requested in the interest of the public. The questions involved in the consideration of the subject matter have been the determination of the value of the Spring Valley Water Works, the income to which the company is reasonably entitled, and how that revenue shall be collected. The most difficult of solution has been the valuation of the works. Several measures of value have been suggested, such as the market value of the stock and indebtedness, its par value and debts, the offer of sale by the company to the city in 1877, the cost of the works, the cost of a system equal in supply and resources. None of these measures seemed to afford an absolute standard, and we have been unable to agree upon

#### A DEFINITE BASIS OF VALUATION.

The necessity of establishing such a basis for the protection of the people in the future, so that an increase of population shall tend to a reduction of rates, must be apparent to all, and was heartily concurred in by my friend from the Twelfth in his minority report, but he evidently refuses to assume the responsibility, and suggests the appointment of appraisers to do that which I believe to be the duty of this board to do. This city has already expended vast sums of money in the investigation of that subject, and it has been reported upon elaborately by two of the best known and most eminent civil engineers of this country, Scowden and Mendell. All the details have been examined into, and the cost of every available source of supply on this peninsula, and within a radius of 200 miles ascertained. It remains, then, for us, acting in a judicial capacity and having before us all the necessary evidence, to enable us to arrive at a satisfactory and intelligent conclusion to determine the value of this property. According to Colonel Mendell's evidence the cost of the Blue Lake scheme, which was considered the most acceptable, was estimated at \$18,399,000 for a daily supply of 22,000,000 gallons. With an additional expenditure of \$1,000,000 the Spring Valley system can afford an equal volume, and

#### THE SUPPLY CAN BE INCREASED AT A LESS COST

Than from any other source. Now, then, what is the true measure of value? Certainly not the market value of a

stock which fluctuates from various causes; certainly not the par value of a stock which may be increased to any amount; certainly not the cost, which may be either more or less than the value of the property; nor can the offer of the company, made under conditions that threatened its very existence, be deemed a proper valuation; but, in my opinion, the value of property should be based upon its adaptation to the uses for which it is designed, as a comprehensive whole, and upon a comparison of what the cost would be of similar property adapted to the same uses and equal in every respect; and that I believe to be the only proper standard. However, in order to be able to agree upon some basis, I suggested an average of the various modes, and the amount arrived at was \$14,500,000, which I deem to be a reasonable and fairly just valuation of the works. A good deal of stress has been laid upon the assertion of parties that the Spring Valley Water Works have not cost more than from one-fourth to one-half of what the company represents. Even were that true, how does it affect value? It certainly does not in any other case. Let us take, as an example, the property, consisting of two 50-vara lots, upon which stands the Lick House to-day. That was purchased by the late James Lick in 1847 for the sum of \$16. Would that fact determine its present value? Why should the Spring Valley Water Works not be entitled to the same increase of value that is not denied to others? Much of its property was purchased many years ago, and has since continually advanced in value, and must possess, necessarily, a still greater value in consideration of the uses to which the property has been applied; and when we consider the relation the company bears to the prosperity of this city, it may be deemed invaluable, and no adequate measure can be established. As to the income to which the company is reasonably entitled, the evidence has been ample to show that the business, being of a hazardous nature, should receive a higher rate of interest than a business which, as my friend from the Twelfth claims, requires skill and capital in its management, and is subject to competition and the

#### FLUCTUATIONS OF THE MARKET.

The company in its management is limited in its resources and income, but a merchant doing business for years upon a low rate of interest derives the benefit of a rise in the market value of his merchandise as exemplified in the case of iron, a few months ago, which enhanced the value of stocks held 200 per cent. The views of a majority of capitalists and business men who appeared before us were that from 8 to 12

per cent. was a reasonable rate of interest, plus the operating expenses. Mr. Fitch, of the *Bulletin*, in one of his articles, states that 8 per cent. upon an 85 cent stock is too much. Now, I should like to know what better evidence would be required by any one disposed to do justice as between man and man, than the fact that a stock paying 8 per cent. upon its par value is only selling in the market (and money waiting to be invested at much lower rates) at 85 cents upon the 100, which makes the real rate about  $9\frac{1}{2}$  per cent. If it prove anything it proves that  $9\frac{1}{2}$  per cent. is deemed, by capitalists who make investments of that nature a profession and a business, a reasonable rate of interest upon such property. And when we go abroad where the usual rates range from  $2\frac{1}{2}$  to 5 per cent. as in London, we find the company is allowed 10 per cent., and that, too, where the conditions are all in favor of the companies. If 8 per cent. is too much to be allowed upon an 85 stock, it would be selling for par, or as much above par as the rate of interest was in excess. That can be easily demonstrated by referring to other stock companies doing business in our midst. The rate of interest in the market is exactly in proportion to the security obtained and the risk incurred, and the value of a company's stock is in proportion to the rate of interest paid and risks incurred. These are financial axioms which cannot be successfully controverted, and which, without any other evidence, should enable business men to arrive at a just conclusion, and therefore I believe that 9 per cent. is

#### A FAIR AND REASONABLE RATE OF INTEREST

for the company to receive, plus operating expenses.

If we were to adopt Mr. Fitch's plan of taking the market value of the stock and paying six per cent. upon that, it would amount to practical confiscation, for every succeeding board would have to place a lower value in accordance with the decline of the stock, and ultimately the stock would be valueless. I do not believe that the public expect anything of the kind. Among many of our best citizens, men who pay large taxes, will be found persons who have invested in this property, assured of its safety and looking to a reliable revenue upon the investment. It would appear that they have some rights which should be respected, and I don't propose to arbitrarily take such action as will destroy the value of their property. The high rates heretofore paid by ratepayers have in a great measure been caused by the

#### UNJUST SYSTEM OF DISCRIMINATION,

now happily abolished by the new Constitution, and accord-

ing to the opinion of legal minds the city will no longer be deadheaded at the expense of consumers, and a more equitable distribution of the burden be inaugurated. Free water is a snare and a delusion, and is solely in the interest of property. The water furnished to the city, and the increased necessary expenditures of the company for fire protection, in the matter of the number of reservoirs, and their altitude, for the required pressure, the increase in the size of their mains, all add to a considerable extent to the cost of water for which the company must be compensated in some form, and therefore, if not remunerated by the city, must inevitably be added to the rates of consumers. If half the people of the city were from some cause entitled to receive their water free, it would follow as a matter of course, that the rates of the other half would be doubled. Out of a list of 98 cities in these United States, 75 are paying directly for the water used for all municipal purposes and the extinguishment of fires. In one instance, property is taxed twenty-five cents on the \$100, and pays all the cost of the water.

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# WATER RATES.

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*Comparison Between the present Charges and those fixed by the Bayley ordinance.*

The following are the present water rates fixed by the commissioners in 1878, under the law of 1858, and also the rates under the new constitution as established by the Bayley ordinance, which passed the Board of Supervisors Tuesday evening. It will be observed that the rates for stores, etc., are fixed in the Bayley ordinance, which do not appear in the commissioners' schedules. This arises from the fact that under the new Constitution the Supervisors *fix all rates*, while under the law of 1858 the commissioners fixed only the rates for *family uses*, leaving the Company the power to fix its own rates for all other purposes:

## COMMISSIONERS' SCHEDULE, 1878.

SQUARE FEET.	One Story.	Two Stories.	Three Stories.	Four Stories.	Five Stories.
600 to 700.....	\$2 00	\$2 00	\$2 25	\$2 50	\$2 75
700 to 800.....	2 00	2 25	2 50	2 75	3 00
800 to 900.....	2 25	2 50	2 75	3 00	3 25
900 to 1,000.....	2 50	2 75	3 00	3 25	3 50

NOTE.—No single rate less than \$2.00. For all houses of one story in height, covering a greater area than 1,000 square feet, there shall be added twenty-five (25) cents for each 200 square feet, and for each additional story the further sum of twenty-five (25) cents. Water rates are due and payable monthly, in advance; when so paid, a discount of ten per cent. on rates is allowed.

SEC. 2. Families of more than five persons shall be charged for each person above that number..... \$0 25

SEC. 3. Bathing Tubs, in private houses, for each tub..... 1 00

In public houses, boarding-houses, bathing establishments, and barber shops, each. .... 2 00

SEC. 5. For Horses kept for private use, including water for washing one vehicle:

For one horse.....	1 00
Each additional horse.....	50
"    "    vehicle.....	1 00

SEC. 7. Hose, for washing windows and sidewalks, shall not have a nozzle larger than three-eighths of an inch, and for water used for this purpose; a charge may be made in addition to that made for other uses, of two cents per front foot of the premises.

SEC. 8. Hotels, etc. Hotels, taverns, and boarding-houses, not including water for baths, or for uses without the house, shall be charged for each bed for boarders and lodgers within the same, in addition to the rates for private families,..... 25

For each day boarder,.....	20
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SEC. 9. Lodging Houses. In addition to rate of family keeping the house, for accommodation of each person within the same.... 20

SEC. 10. Irrigation. For gardens and grounds not more than twenty-five square yards in area..... 25

From 25 to 50 square yards.....	50
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From 50 to 75 " "	75
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From 75 to 100 " "	1 00
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All over 100 square yards, one cent per square yard.

SEC. 11. Water Closets. For each water closet for use of public houses or of public buildings..... 2 00

For each water closet for use of private dwellings.....	50
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SEC. 13. Water furnished for any and all other purposes not embraced in the above, will be supplied by meter at the following rates:

One dollar per thousand gallons, provided the monthly bill shall not be less than five dollars.

Seventy-five cents per thousand gallons, provided the monthly bill shall not be less than ten dollars.

Fifty cents per thousand gallons, provided the monthly bill shall not be less than fifty dollars.

The Company shall have power, in all cases, to apply meters for the purpose of discovering waste, and, when waste is found, to charge for the water so wasted at meter rates.

I. FRIEDLANDER, H. B. WILLIAMS, JEROME LINCOLN, W. F. BABCOCK, CHARLES WEBB HOWARD,	} Commissioners.
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#### SCHEDULE UNDER BAYLEY ORDINANCE.

Order No 1573, establishing water rates. The people of the City and County of San Francisco do ordain as follows:

The monthly rate of compensation to be collected by any person, company or corporation, engaged in the business of supplying water to the City and County of San Francisco, or the inhabitants thereof, for the year commencing July 1st, 1880, and ending June 30th, 1881, are hereby fixed as follows:

SECTION 1. For tenements occupied by a single family, covering a ground surface of

SQUARE FEET.	One Story.	Two Stories.	Three Stories.	Four Stories.	Five Stories.
600 to 700.....	\$1 60	\$1 60	\$1 80	\$2 00	\$2 20
700 to 800.....	1 60	1 80	2 00	2 20	2 40
800 to 900.....	1 80	2 00	2 20	2 40	2 60
900 to 1,000.....	2 00	2 20	2 40	2 60	2 80

NOTE.—No single rate less than \$1.60. For all houses one story in height, covering a greater area than one thousand (1,000) square feet, there shall be added twenty (20) cents for each additional 200 square feet or fractional part thereof, and twenty (20) cents for each additional story.

Where a tenement is occupied by more than one family there shall be charged in addition to the foregoing rates three-quarters ( $\frac{3}{4}$ ) of said rates for each additional family.

SEC. 2. Bathing tubs in private houses. For each tub..... \$0 80

In public houses, boarding-houses, bathing establishments, and barber shops, where meters are not used, for each tub..... 1 80

SEC. 3. For horses kept for private use, including water for washing one vehicle:

For one horse..... - 80

Each additional horse..... - 40

Each additional vehicle..... - 80

SEC. 4. Boarding and lodging-house, not including water for baths, water closets, and urinals, or for uses without the house, shall be charged for each head for boarders and lodgers within the same, in addition to the rates for private families..... 20

For each day boarder..... 15

SEC. 5. Irrigation for gardens and grounds, one cent per square yard.

Hose for washing windows and sidewalks shall not have a nozzle larger than three-eighths of an inch, and for water used for this purpose a charge may be made, in addition to that made for other uses, not to exceed two (2) cents per front foot.

SEC. 6. Water closets. For each water closet for use of public buildings..... \$1 60

For each water closet for use of private dwellings..... 40

SEC. 7. Urinals. For each urinal for use of public houses or of public buildings..... 40

For each urinal for use of private dwellings..... 20

SEC. 8. For water furnished for building purposes:

Each barrel of lime..... \$ 37½

Each thousand brick..... 25

Stores, Banks, Offices, Warehouses, Saloons, Groceries, Eating Houses, Barber Shops, Butcher Shops, Bookbinderies, Blacksmith Shops, Confectionaries, Churches, Halls, Laundries, Photograph Galleries, Printing Offices, Steam Engines, Greenhouses, Markets, Market Stalls, Horse Troughs, Soda Fountains, and other places of business not supplied by meter, to be charged according to the estimated quantity used, from two (2) to fifteen (15) dollars.

SEC. 9. Bakeries, according to monthly use of flour:

For each twenty-five barrels..... \$1 50

SEC. 10. Water furnished for any and all other purposes, not embraced in the above, will be supplied by meter at the following rates.

\$0 90 per thousand gallons, provided the monthly bill shall be not less than five dollars.

\$0 70 per thousand gallons, provided the monthly bill shall be not less than ten dollars.

\$0 50 per thousand gallons, provided the monthly bill shall be not less than fifty dollars.

\$0 40 per thousand gallons, provided the monthly bill shall be not less than one hundred dollars.

SEC. 11. The rates of compensation to be collected for water supplied to the City and County of San Francisco for municipal purposes, shall be as follows:

Fifteen dollars per month for each and every hydrant for fire purposes and for flushing sewers.

Five hundred dollars per month for water furnished to the Golden Gate Park.

Seven thousand dollars per month for water furnished to all the public buildings.

In case the rates or compensation hereby fixed for water, supplied to the City and County of San Francisco for municipal purposes, shall be fully paid monthly, by the said city and county to the Spring Valley Water Works, the same shall be allowed by said corporation, upon the rates charged to its consumers, other than the city and county, for the month succeeding the month in which the same are collected, and in such manner, that the rates to such consumers, for such succeeding month, shall be diminished twenty-five per cent., or such proportion thereof as may be collected, from said city and county.

SEC. 12. All persons, companies or corporations supplying water as aforesaid, shall have power in all cases, to apply meters for the purpose of discovering waste or excessive use, and when waste or excessive use is found, to charge for water so wasted or excessively used at meter rates.

SEC. 13. All water rates, except meter, and city and county rates, are due and payable monthly in advance, and when not so paid shall be subject to an addition of five per cent.

Meter and city and county rates are due and payable at the end of the month, and upon meter rates, a deposit not exceed three-fourths ( $\frac{3}{4}$ ) of the value of the estimated quantity of water to be consumed may be required.

Meter rates if not paid within ten days after becoming due shall be subject to an addition of five per cent.

SEC. 14. This ordinance fixes the maximum beyond which any person, company or corporation shall not be permitted to charge, and this ordinance shall not, in case any of the rates now collected are below the maximum here established, be deemed to authorize the increase of such rates, excepting in case of extension or improvement of the premises, or increase of water used.

And the Clerk is hereby directed to advertise this order as required by law.

In Board of Supervisors, San Francisco, May 17, 1880.

Passed for printing by the following vote:

AYES—Supervisors Schottler, Mason, Litchfield, Drake, Whitney, Eastman, Fraser, Taylor, Doane, Bayley, Torrey.

NO—Supervisor Stetson.

JNO. A. RUSSELL, Clerk.

## MESSAGE OF THE MAYOR APPROVING THE BAYLEY ORDINANCE.

---

SAN FRANCISCO, June 10, 1880.

*The Honorable, the Board of Supervisors of the City and County of San Francisco—*

GENTLEMEN: I am aware that there will be a feeling of surprise on the part of some, and disappointment on the part of others that I do not veto the Water Ordinance. For the benefit of such I would say that

### MY VETO COULD BE OF NO EFFECT.

The ordinance is already passed by a sufficient number to override it, and interposition on my part would probably not change the result. I am ready to frankly admit, so far as I am concerned, that I shall avoid unnecessary or fruitless antagonism in the future with the Board of Supervisors. No anxiety on my part to make a "record" can induce me to keep the city in a perpetual agitation on this or any other question. A veto then being out of the question, only two courses are left me. One is to allow the ordinance to become a law without my signature; the other is to append my signature, and give

### MY REASONS FOR SO DOING.

This appearing to me to be the more honorable and manly way, I herewith return the ordinance signed, and ask your attention to some of the considerations moving me thereto.

I have carefully examined the accompanying ordinance fixing water rates, and have also read the testimony which has been presented to the Committee on Water, as well as the majority and minority reports of that committee. The theory upon which the ordinance is appears to be based, is best shown by the conclusions expressed in the majority report, in the following language:

*First*—That the principle which should govern the regulation of rates is, that the Spring Valley Water Works is entitled, in addition to operating expenses, to a fair rate of interest upon the value of its works.

*Second*—That a fair rate of interest is between 8 and 10 per cent.

*Third*—That the income at present derived from existing rates, after deducting operating expenses, does not equal even \$ per cent. upon the value of the works.

*Fourth*—That the old system of collecting rates, which placed the whole burden upon the rate-payers, is unjust and inequitable, and is the real cause of the great dissatisfaction with the rates.

*Fifth*—That this system has been abolished by the new Constitution, and that, under the new Constitution, the city is compelled to pay for water for all municipal purposes.

*Sixth*—That the rates of the city should be fixed and established so as to yield about one-fourth of the revenue of the company, and that the payments made by the city should not increase the revenue of the company, but should be allowed upon existing rates to consumers, so as to reduce the same 25 per cent.

#### WITH THESE CONCLUSIONS I CONCUR

In the main, except as to the 6th. (I think that the city should bear at least one-half of the annual cost of supplying water to San Francisco and its inhabitants, and that the rates of rate-payers should be correspondingly reduced. The rate-payers use water only for domestic purposes. The city uses and requires water not only for its public buildings, but also for protection against fire, flushing sewers, watering streets, and irrigating parks. It receives more than one half the benefit, and should pay at least one-half the cost.) The intention of the new Constitution was to do away with the discrimination in favor of property which existed under the old system, for it provides that the Board of Supervisors shall fix the rates of compensation to be paid by the city, as well as its inhabitants. This was the general construction when the new Constitution was under discussion. Its justice has since been recognized by the community at large, and has been expressed in political clubs, and conventions, and in party platforms. For these reasons I have been disposed to withhold my signature from the proposed ordinance, in the hope that your honorable bodies might reconsider the matter and

#### RELIEVE RATE-PAYERS STILL FURTHER

By compelling the city at large to assume its just proportion of the burden. But there would hardly be time to consummate the change before the first of July, and I judge, as I have said, by the majority by which the ordinance passed,

that the views of those who voted for it would not yield to my suggestions. I have examined the ordinance carefully, with a view to the objections which have been urged against it, that it increases existing rates, and, while it ostensibly provides for a reduction of 25 per cent., contingent upon the city's payment, the real reduction will be only 15 per cent.

A comparison with the schedule fixed by the Commissioners in 1878, and now in force, shows that the rates of the proposed ordinance are in most cases 20 per cent. below those of the schedule of 1878, and in no case equal to them. Section 14 prevents the increase of existing rates. By existing rates, I understand the rates of the schedule with the 10 per cent. off. It appears, then, notwithstanding the schedule of 1878 was above the rates actually collected, that the proposed ordinance

REDUCES SOME RATES, INCREASES NONE,

And provides for a reduction of 25 per cent. contingent upon the city's payment, and that this reduction of 25 per cent. is upon existing rates after the deduction of 10 per cent. has been made. I do not think that any other construction can be made, and the Company is bound by its assurance to your honorable body in its address, that it intended to apply every dollar that it received from the city to a reduction of rates. It is, in my opinion, impossible for the Company to escape this construction, either in law or honor, and I do not think it will be ever attempted. It appears, then, that the objections urged are untenable, and with the above statement of my opinion, that the city should pay one-half, instead of one-fourth, as in the proposed ordinance, I return the bill with my signature.

IN CONCLUSION,

Permit me to express some views which may lead to a solution of the water question. This subject has been agitated for the past five years, and has resulted in injury to the city as well as to the Company. It is time that it was ended. It is apparent that the business of supplying water is hazardous in its nature; that it is subject to competition, contingencies and risks which entitle it to a liberal rate of interest. It is also apparent that the Spring Valley Works are, as the investigations of the past few years have demonstrated, and as Col. H. Mendell terms them, the natural system of supply for San Francisco, that although other schemes are practicable, yet

that it would cost, as Col. Mendell shows, as much or more to supply from any other source, what Spring Valley now supplies. That Spring Valley has sources of supply sufficient for 1,300,000 people, and that its supply can be increased with less expenditure than by other schemes. These are great natural and acquired advantages which give Spring Valley great value. Of what avail, then, is it to assert that they cost a trivial sum, or that they are worth only an inconsiderable amount, in the face of these facts? What

#### FOLLY TO QUARREL

Over the difference between \$11,000,000, which the city offered to give, and \$13,250,000, which the company offered to take, when the fact is indisputable that a duplicate system can not be inaugurated without a probable greater expenditure than either amount? The value of these works is a fact, and the community can not deprive the Company of that value, either by assertion or regulation, for the Constitution provides that property shall not be taken for public use without just compensation, and the United States Supreme Court has determined that the regulation of private property by the public must be reasonable, due regard being had to value.

Although the Committee has determined that existing rates do not yield the Company, in addition to operating expenses, 9 per cent. or even 8 per cent., upon the value of the works, yet it is apparent that within a short time the increase of population will bring the revenue up to that limit. We will assume that the Company continues to own the works, and that its revenue will be sufficient to pay its operating expenses and 9 per cent. upon the value of the works. Now, if the city, availing itself of its great credit, should buy the works and sell its bonds therefor, bearing interest at six per cent., they would be taken at a rate above par. The difference, then, would be this—the Company would be entitled to raise a revenue sufficient to pay operating expenses and 9 per cent. upon the value of the works; the city, if it owned them, would have to raise a revenue sufficient to pay operating expenses, and 6 per cent. upon the value of the works. Thus

#### THE COMMUNITY WOULD SAVE 3 PER CENT. ANNUALLY

Upon the value of the works, which, if the value is \$12,000,-000, would be \$360,000 annually, or, if the value is \$14,500,-000, as the Chairman of the Committee values them, by taking the average of the different estimates, would be \$435,000,

annually. This amount could go into a sinking fund, which would be annually applied to the redemption of outstanding bonds, and thus, at the end of a period of years, the city would own the works without raising any more revenue annually than would be raised by the Water Company if it continued to own them. Indeed, the burden of the community would gradually be reduced, for, as the bonds would be redeemed, the city would require less revenue from the works to pay its interest, and thus when the bonds were fully paid, it would only be necessary to raise a revenue sufficient to pay operating expenses.

#### BY THIS MODE

The city would acquire the works, and at the same time two factors would be at work to diminish the water rates, viz., increase of population and gradual diminution of the gross amount necessary to pay operating expenses and interest on the bonds. I believe the people are sick and tired of a strife which has been kept up mainly by interested parties, and in which the people have been the principal sufferers. There is a straightforward and manly course to be pursued in this matter, which must commend itself to every citizen whose interests do not unduly prejudice his judgment. It can not, certainly, be a difficult matter to fix the value of the Spring Valley Water Works. This could be done by a commission, chosen, one by the city, one by the Company, and a third by the two thus chosen. Or, the city and Company could agree on

#### SOME UNEXCEPTIONAL EXPERT,

Such as Hon. Jas. B. Eads, for example. The decision, in either case, to be final and binding on all parties. Then there is one or two honorable things for the city to do:

The first is to buy the works. This proposition I have already elaborated. The second is to agree upon the rate of interest the Company should receive on its property. This, as I have shown, will depend on the certainty and security of payment. No doubt the Company would consider 6 per cent., under some circumstances, a better rate of interest than 10 per cent. under the present. But when the rate is fixed, then let a tax be levied on property, as it is everywhere else, for the payment of at least one-half the amount, and

#### THUS REDUCE THE PRICE OF WATER

To poor consumers at least one-half. It is astonishing and monstrous that immense houses containing millions of dollars

of property, on which thousands of dollars are annually saved on insurance by the Water Company, should pay no more annually toward its expenses than a poor man must pay for water necessary for his family use.

IT IS A WRONG AND AN OUTRAGE

That vacant corner lots, which are made valuable because adjacent property is protected from risks of fire by the Water Company, should pay nothing for such protection, while the men who have improved their lots, and added to the property of the city, should also be made to pay for those who refuse to make any improvements, while, at the same time, they are relieved from any tax for so great a public use. There is only

ONE SENSIBLE THING FOR THE MASSES

Of people to demand, and that is, that property should pay its proper share for water, in which case—and in which case only—the people can secure relief. It is our only practicable method, and I commend it to the attention of the people at large as a wiser and better method than a useless and endless controversy with a Company which ought to be, and if we treat it fairly, I believe, will be operated in the interest of the city, and for the benefit of the citizens.

I. S. KALLOCH.

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A COMPILATION  
OF THE  
LAWS  
REGULATING THE ORGANIZATION AND CONTROL  
OF THE  
POLICE DEPARTMENT  
OF THE  
CITY AND COUNTY OF SAN FRANCISCO.



By ALFRED CLARKE, COUNSELLOR AT LAW,  
SAN FRANCISCO, CALIFORNIA,

APRIL, 1878.

BUNKER & HESTER, PRINTERS, NO. 16 LEIDESDORFF STREET.







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# BOARD OF POLICE COMMISSIONERS

OF THE

## City and County of San Francisco.

---

R. P. HAMMOND, President,

WILLIAM ALVORD,

ROBERT J. TOBIN,

JOHN KIRKPATRICK,

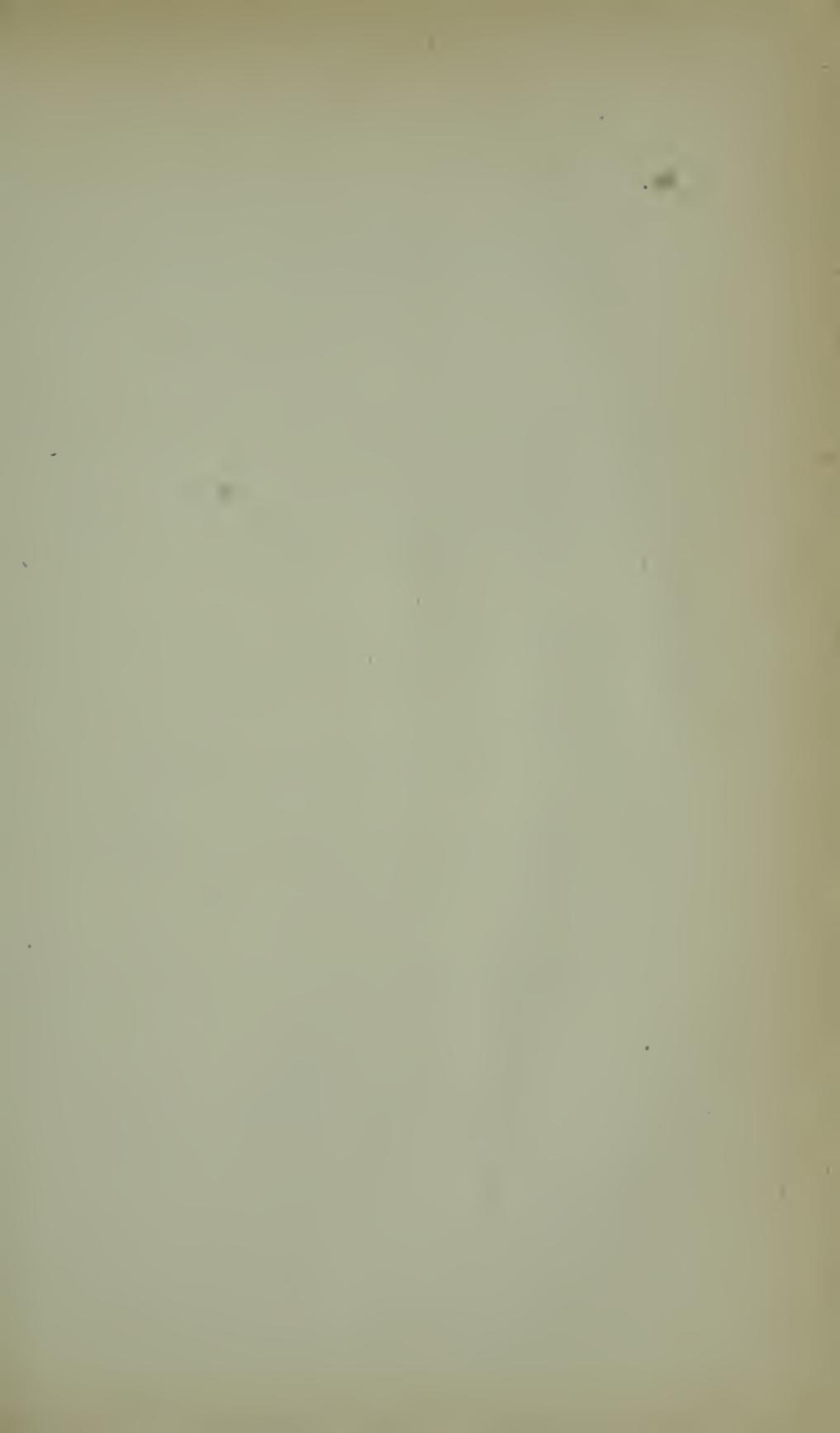
Police Commissioners.

ALFRED CLARKE, Clerk of the Board.

JOHN KIRKPATRICK, CHIEF OF POLICE.

APRIL, 1878.







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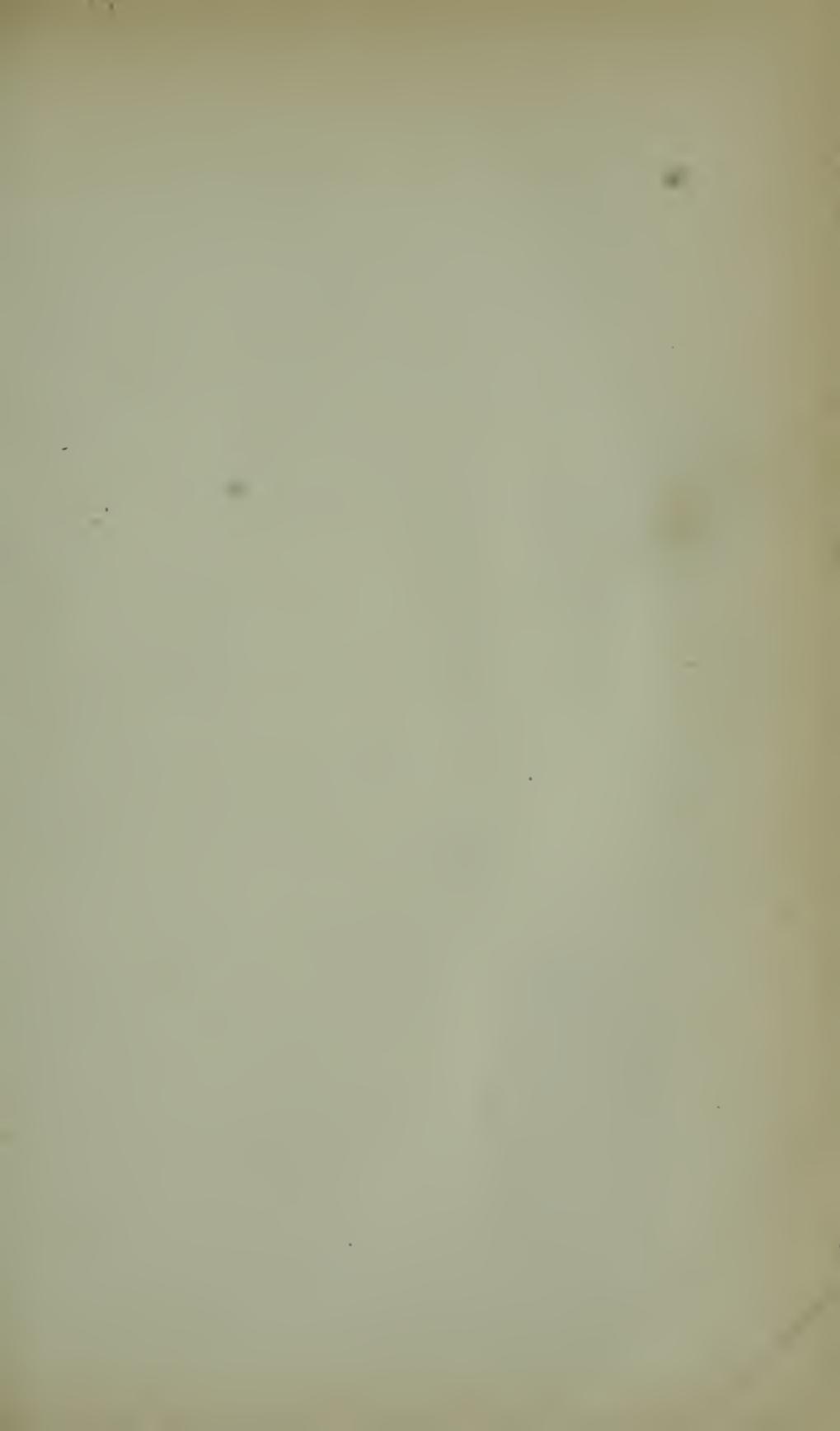
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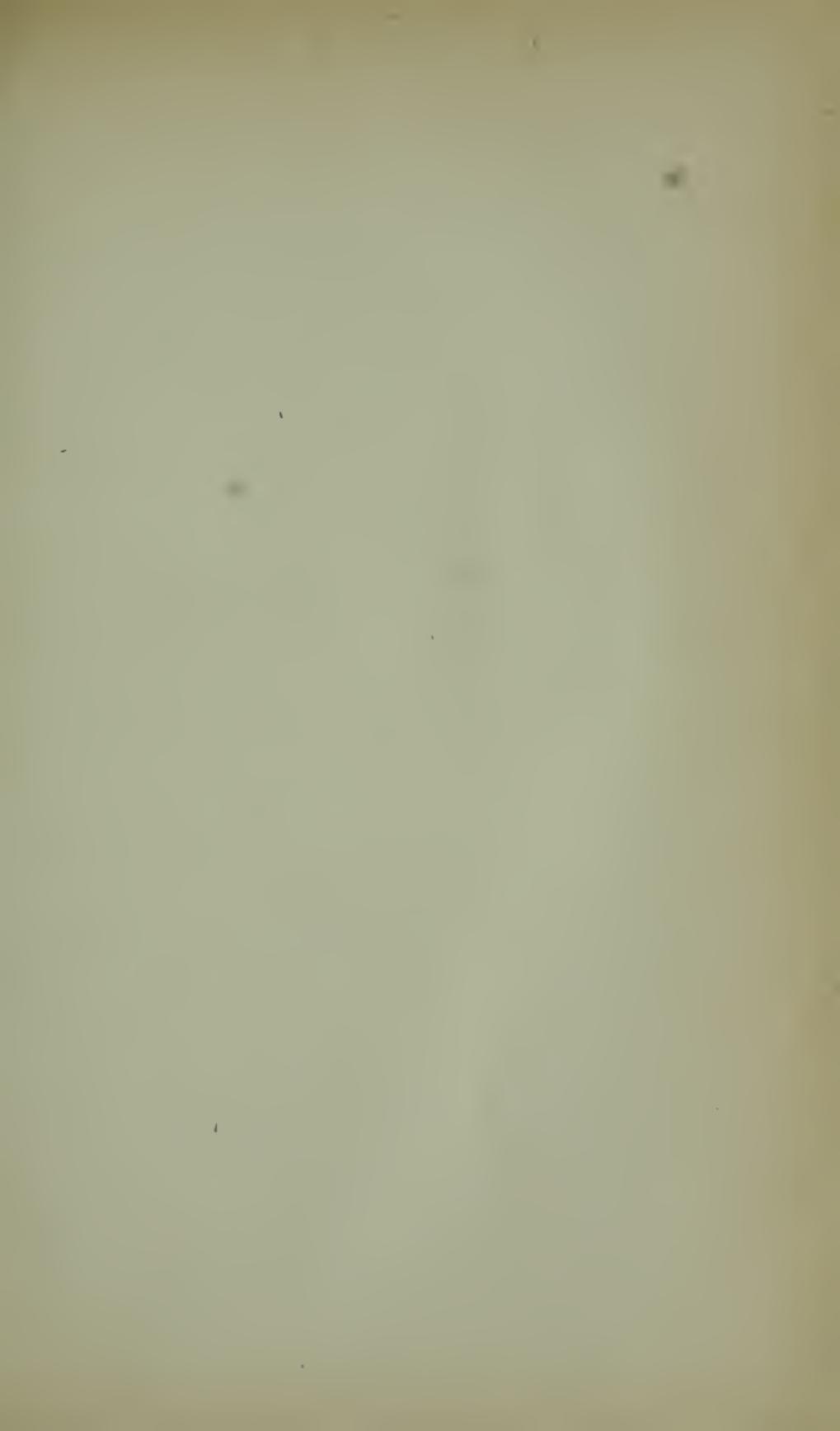
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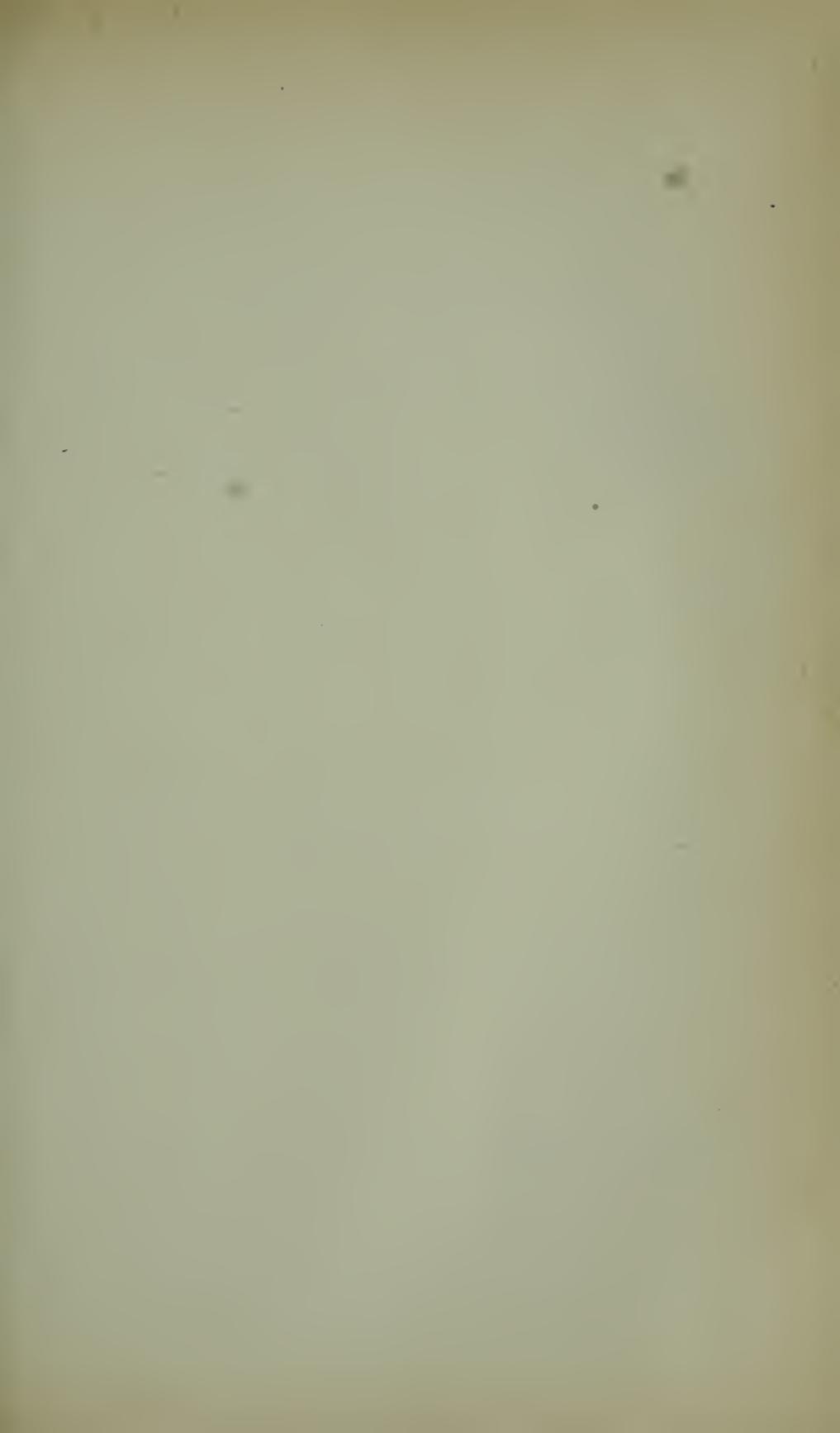
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# AN ACT

TO ENABLE THE BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO TO INCREASE THE POLICE FORCE OF SAID CITY AND COUNTY, AND TO PROVIDE FOR THE APPOINTMENT, REGULATION, AND PAYMENT THEREOF.

[Approved April 1, 1878.]

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*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

## Increase of Police Force.

SECTION 1. The Board of Supervisors of the City and County of San Francisco shall have power to increase the Police force of said City and County, and to reorganize the same, in the following manner: In addition to the force of one hundred and fifty now allowed by law, said Board may increase the same by not to exceed two hundred and fifty, making not more than four hundred in all, to be appointed and governed in the manner provided for the appointment and regulation of the Police force of said City and County.

## Compensation of Officers. Old and New Police.

SEC. 2. The compensation of the two hundred and ~~fifty~~ (250) Police officers provided for by this Act, or such part

thereof as said Board of Supervisors shall allow, shall not exceed one hundred and two dollars (\$102) per month each; and the compensation of the police officers in office at the time of the passage of this Act shall continue at the amount or rate established by the Act or Acts under which they have been appointed, until the first day of January, A. D. eighteen hundred and seventy-nine, when and upon which day their pay shall be graded and fixed by the Board of Commissioners provided to be appointed by this Act.

Old and New Police.

The police officers now in office shall be known as the "old police," and those appointed by virtue of this Act shall be known as the "new police."

New Appointees to form New Police.

Police officers hereafter appointed to fill vacancies upon the "old police" shall receive the same pay with the "new police,"

Treasurer shall retain \$2 per month towards P. L. & H. I. Fund.

SUBJECT TO THE CONDITION that the Treasurer of said City and County shall retain from the pay of each police officer the sum of two dollars per month, to be paid into a fund to be known as "The Police Life and Health Insurance Fund," which said fund shall be administered as is provided in sections nine to thirteen, inclusive, of this Act.

Special Officers abolished, except in certain cases, etc.

SEC. 3. The system of "special police" officers, as heretofore practiced in said City and County, is hereby abolished and prohibited, and no special officer shall be appointed, except as herein provided for.

Appointment of Special Officers.

\*It shall be lawful for the Police Commissioners to appoint a special officer when the same is petitioned for





by any persons, firms, or corporations, to be named in the warrant of appointment, to do a special service, to be paid by such persons, firms, or corporations so petitioning.

**Penalty for Special Officers unlawfully collecting.**

Any special officer asking for, soliciting, demanding, collecting, or receiving, or causing others to do so for his benefit, any money or other valuable thing, upon pretense of guarding or protection of the persons or property of the persons from whom the same shall be asked, demanded, solicited, collected, or received, except the persons, firms, or corporations so petitioning for his said appointment, and named in said warrant, shall be guilty of a misdemeanor, and, on conviction, punished accordingly, and shall be dismissed from the service; PROVIDED, that this section shall not take effect until ninety days after its passage.

\***NOTE.—Extract from Political Code.**

**SEC. 2550.** † It is hereby made the duty of the Board of Police Commissioners of the City and County of San Francisco to appoint such number of wharfingers and toll collectors' special policeman as such Commissioners (i. e., Harbor Commissioners) shall request in writing, such Police Commissioners to appoint, and also shall furnish such special policemen the usual badge of office, which shall be paid for by the Commissioners (i. e., the Harbor Commissioners.) Such appointments must be renewed once in each year. The jurisdiction of such special policemen shall be co-extensive with the premises described in this article, [Art. 9, Chapter 1, Title 6, Part 3, Pol. Code], and their terms of office as such wharfingers and toll collectors.

†As amended February 28, 1876.

Special Police prohibited in Chinese quarter.

**SEC. 4.** No special police officer shall ever be ap-

pointed in that portion of said City and County known as the Chinese quarter, the boundaries of which shall be established from time to time by the Police Commissioners.

Rotation of Regular Police in Chinese quarter.

It shall be the duty of the Chief of Police to change the police officers of the regular force stationed in the Chinese quarter, and to substitute others in their places, so that the whole force, in their turn, shall regularly be assigned for duty in said quarter in regular and continuous rotation.

Payment of Old Police.

SEC. 5. The police officers now in office shall continue to be paid in the same manner, and out of the fund, the same as before the passage of this Act.

Payment of New Police.

The members of the "new police" force shall be paid in the following manner : Each police officer of said new police shall have issued to him monthly by the Auditor, a demand on the Treasurer, showing the amount due him for his salary for such month.

Registration of salary demands.

Said demand, on presentation, to the Treasurer of said City and County shall be by him registered, in the order of its issuance, in a book to be kept by him for the purpose, and shall, from the date of such registration, bear interest at the rate of six per cent. per annum until paid.

Payment in Gold Coin.

Both interest and principal shall be paid in United States gold coin, in the manner hereinafter provided for.

Tax shall be levied to pay Police.

SEC. 6. The Board of Supervisors of said City and





County shall include in the tax levy for the fiscal year commencing on the first day of June, A. D. eighteen hundred and seventy-eight, a sum and rate sufficient to pay all such registered demands on the treasury, with said interest, and also for the future payment of the salaries of said "new police."

From the time money comes into the treasury sufficient to pay off all of said registered demands, then and from such time said "new police" shall be paid in cash, in the same manner as the old police are paid.

Certain [District Judges shall appoint Police Commissioners.

Salary of President and Commissioners.

Ineligibility of Police Commissioners for political office or nominating conventions.

Members of Police Department must not take part in partisan conventions, etc.

Penalty.

SEC. 7. The Judge of the Fifteenth Judicial District of the State of California, the Judge of the Twelfth Judicial District of the State of California, and the Judge of the Fourth Judicial District of the State of California, or so many of them as shall act, are hereby empowered and required to meet together within ten days after the passage of this Act, or as soon thereafter as practicable, and as often as shall be necessary, and to choose three citizens of said City and County, householders of good repute, without respect to their polities, who, together with the Chief of Police, shall constitute the Board of Police Commissioners for said City and County. Said four Commissioners shall be vested with all the powers and subject to all the duties and liabilities of, and shall supersede the Board of Police Commissioners provided for in section seven (7) of an Act entitled "An Act to create a City Criminal Court in and for the City and County of San Francisco, and to define its powers and jurisdiction," approved April third, A. D. eighteen hundred and seventy-six, which section of said Act, and



department take any part whatever in any partisan convention held for the purpose of a political party.

Police Commissioners shall not influence Officers in elections.

\*Nor shall any member of the said Board of Police Commissioners directly or indirectly attempt to influence or control the action of any member of said police department, or any employee thereof, in any primary or general election.

Penalty.

Any violation of the provisions of this section shall be deemed a misdemeanor, and on conviction, punished accordingly.

\*NOTE.—See Sec. 2, Act of March 23, 1872, page 24 Post.

The entire Police Force shall be subject to this and pre-existing Law.

SEC. 8. The entire police force of said City and County shall be and continue subject to all laws and regulations in force before the passage of this Act, and not inconsistent or in conflict herewith.

Police Life and Health Insurance Board.

SEC. 9. That the Mayor, Auditor, and Treasurer of the City and County of San Francisco shall constitute a Board known as "The Police Life and Health Insurance Board."

Duties of Police Life and Health Insurance Board.

SEC. 10. The said Board shall, from time to time, as in their judgment may be best, invest the moneys of "The Police Life and Health Insurance Fund" in such of the following securities as shall seem the most safe and profitable, namely : The bonds of the City and County of San Francisco, the bonds of the State of California, the bonds of the United States of

America; and the securities shall be held by said Treasurer, subject to the order of said Board, and the said Treasurer shall have no power to deposit, pledge, or in any way part with the possession of said securities, or the evidence thereof, except on the order of said Board.

Payment of Insurance on death, resignation or dismissal of Police Office.

SEC. 11. Upon the death of any member of the said police force, after the first day of June, eighteen hundred and seventy-eight, there shall be paid by the Treasurer, out of said "Life and Health Insurance Fund," to the legal representative of said police officer, the sum of one thousand dollars.

Payment in case of Resignation.

In case any police officer shall resign, from bad health or bodily infirmity, there shall be paid to him from said fund the amount of the principal sum which he shall have contributed thereto.

Payment in case of dismissal for venial fault.

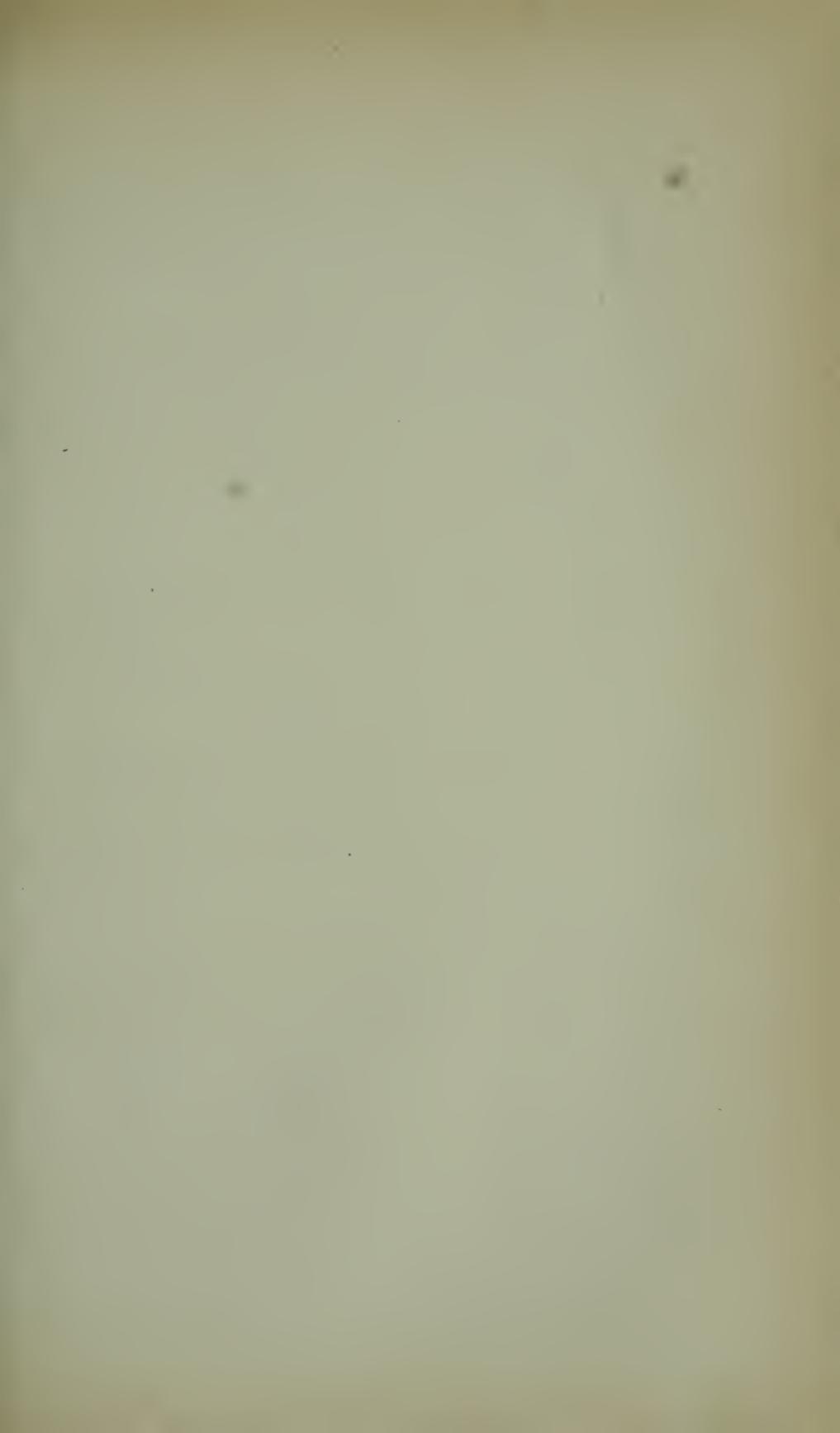
In case of dismissal of any police officer for mere incompetency not coupled with any offense against the laws of the State, such officer shall be paid from said fund such amount as the Board may award, not exceeding one-half of the sum he may have contributed to said fund.

Payment in case of dismissal for gross fault.

Any officer dismissed for gross neglect or violation of duty, or upon conviction of any misdemeanor or felony, shall forfeit all claim upon said fund.

Registration of Demands.

SEC. 12. In case such fund shall not be sufficient to pay the demand upon it, such demand shall be registered and paid





in the order of its registry out of the funds as received.

No Compensation allowed Members of Police Life and Health Insurance Board.

SEC. 13. The said Mayor, Auditor, and Treasurer shall receive no compensation for their services as members of said Board, nor shall the said Treasurer receive any compensation as Treasurer and custodian of said funds.

Appointment of Captain of Harbor Police.

SEC. 14. In addition to the Captains of Police now allowed by law, the Commissioners shall appoint one Captain, who shall be known as the Captain of the Harbor Police, and shall receive the same salary as other Captains of the Police.

Meetings of Board of Police Commissioners.

Clerk of Chief of Police shall serve as Clerk of Board.

SEC. 15. The Police Commissioners appointed under this Act shall hold their meetings in the office of the Chief of Police, or in such other convenient place as the Board of Supervisors shall designate, and the Clerk of the Chief of Police shall act as the Clerk of said Board of Commissioners.

SEC. 16. This act shall take effect immediately.

## EXTRACT FROM THE "CONSOLIDATION ACT."

[Approved April 19, 1856, page 145.]

### PUBLIC ORDER AND POLICE.

Chief of Police shall direct Police Department.

SEC. 15. The Department of Police of said City and County shall be under the direction of the Chief of Police, in subjection to the laws of this State, and the rules and regula-

tions, not in conflict therewith, which may be established by competent authority, under the powers granted in this Act.

Powers and duties of Chief.

Citizens shall aid when required.

In the suppression of any riot, public tumult, disturbances of the public peace or organized resistance against the laws, or public authorities in the lawful exercise of their functions, he shall have all the powers that now are, or hereafter may be, conferred upon Sheriffs by the laws of this State, and his lawful orders shall be promptly executed by all Police Officers, Watchmen and Constables in the said City and County; and every citizen shall also lend him aid, when required, for the arrest of offenders and maintenance of public order.

Chief of Police shall keep public office, etc.

SEC. 16. The Chief of Police shall keep a public office, which shall be open, and at which he, or in case of his necessary absence, a Captain of Police, or Police Officer, by him designated for that purpose, shall be in attendance, at all hours, day and night.

In case of his necessary absence from his office it shall be made known to the Police Officer in attendance where he can be found, if needed, and he shall not absent himself from the City and County without urgent necessity, and leave obtained, in writing, from the President of the Board of Supervisors, Police Judge and County Judge, or two of them, who shall, at the time of granting the same, appoint a person to act during his absence, with all his powers, duties and obligations.

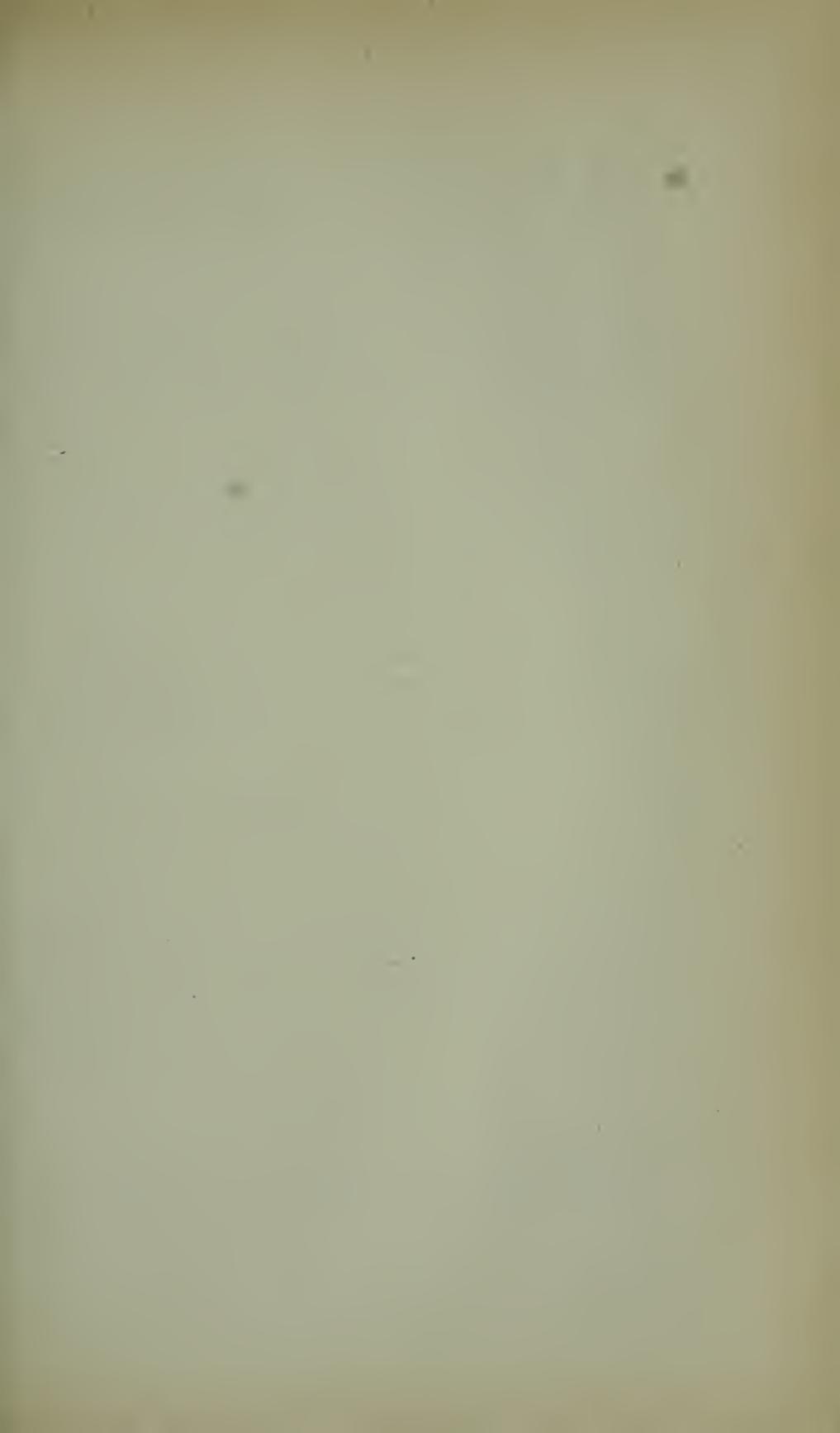
If such absence from the City and County be on any other than business immediately connected with his office, he shall lose his salary for the time of such absence, of which account shall be taken by the Police Judge.

Chief of Police shall detail Officers for Police Judge's Court.

Order arrests made in certain cases.

Supervise the police force, and exercise his powers as head of Police.

SEC. 17. The Chief of Police shall designate one or





more out of the number of Police Officers to attend constantly upon the Police Judge's Court, to execute the orders and process of the said Court.

Chief may order arrests.

He may order to be arrested and to be taken before the Police Judge, any person guilty of a breach of the peace or a violation of the general regulations established by the Board of Supervisors under the authority granted in this Act.

Chief shall supervise and direct the Police force, etc.

He shall supervise and direct the Police force of said City and County, and shall observe and cause to be observed the provisions of this Act, and the regulations established by the Board of Supervisors in relation thereto.

He shall see that the lawful orders and process issued by the Police Judge's Court are promptly executed.

And shall exercise such other powers connected with his office, as head of Police, as may be prescribed in the general regulations adopted by the Board of Supervisors.

Chief of Police shall be acquainted with law relating to crime and criminal proceedings.

Keep certain law books, and give advice concerning same.

SEC. 18. The Chief of Police shall acquaint himself with all the statutes and laws in force in this State defining public offenses and nuisances, and regulating criminal proceedings, and shall procure and keep in his office the Statutes of this State and of the United States, and all necessary elementary works on that subject.

Chief shall give information and advice.

He shall give information and advice touching said laws, gratuitously, to all Police Officers and Magistrates asking it.

## SEC. 19. RELATES TO CLERK OF POLICE JUDGE'S COURT.

Proceedings in Police Judge's Court.

SEC. 20. Proceedings in the Police Judge's Court shall be conducted in conformity with the laws regulating proceedings in the Recorders' Courts. \*The said Court shall be open daily, Sundays excepted. \* \* \* \* \*

\*NOTE.—See Sec. 1426 to 1461 inclusive, Penal Code.

Duties of Clerk of Police Court.

SEC. 21.\* The Clerk of the Police Judge's Court shall keep a record of its proceedings, issue all process ordered by said Court, receive and pay weekly into the treasury of the City and County all fines imposed by said Court, and render to the County Auditor, monthly, and before any amount can be paid him on account of salary, an exact and detailed account, upon oath, accompanied with an exhibition of said record, of all fines imposed and moneys collected since his last account rendered.

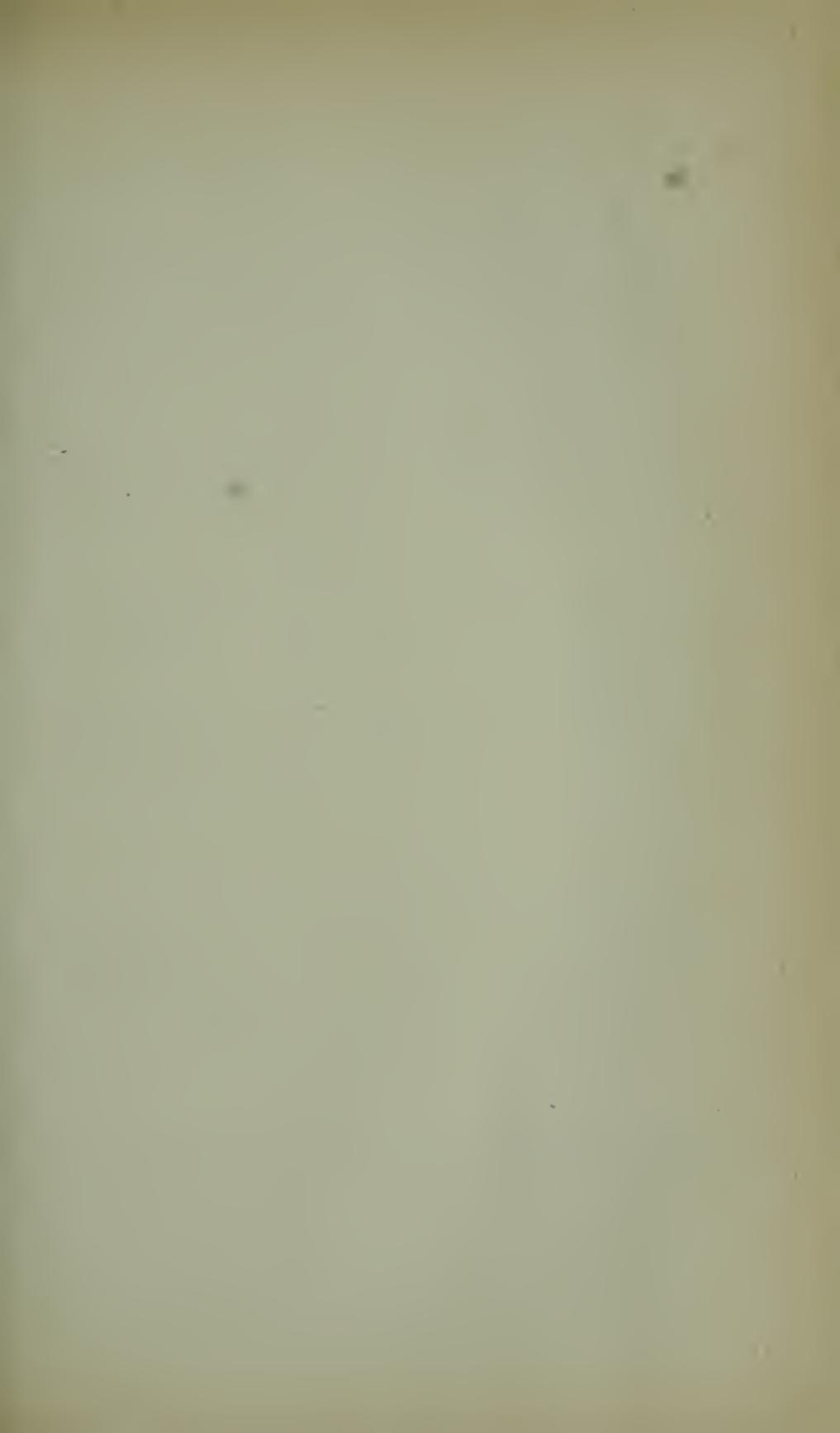
He shall prepare bonds, justify and except bail, when the amount has been fixed by the Police Judge, in cases not exceeding one thousand dollars, and he shall fix, justify and accept bail, after arrest, in the absence of the Police Judge, in all cases not amounting to a felony, in the same manner and to the same effect as though the same had been fixed by the Police Judge.

The said Clerk shall remain at the court-room of said court, in the City Hall, during the hours (9 A. M., to 4 P. M.,) named in section eight of the Act of which this is amendatory, and during such reasonable hours thereafter as may be necessary for the purpose of discharging his said duties.

\*As amended, May 18, 1861, 544.

Disposition of fines. Public Works, etc.

SEC. 22. All fines imposed by the Police Judge's Court, Court of Sessions (County Court) of said City and County, or





any Justice's Court, shall be paid into the treasury thereof, as part of the Police Fund.

Imprisonment.

In cases where, for any offense, the said Courts are authorized to impose a fine or imprisonment in the county jail, or both, they may, instead thereof, sentence the offender to be employed in labor upon the public works of said City and County, for a period of time equal to the term of imprisonment which might be legally imposed, and may, in case of imposing a fine, embrace as a part of the sentence, that in default of payment of such fine, the offender shall be employed to labor on said public works, at one dollar a day till the fine imposed is satisfied.

Public Works defined.

By the public works, as used in this Act, is understood the construction, or repair or cleaning, of any street, road, dock, wharf, public square, park, building, or other works whatsoever, which is authorized to be done by and for the use of the said City and County, and the expense of which is not to be borne exclusively by the individuals or property particularly benefitted thereby.

Appointment of Police Captains and Officers.

SEC. 23. The Chief of Police, in conjunction with the President of the Board of Supervisors and the Police Judge, the concurrence of two of them being necessary to a choice, shall appoint four Captains of Police, each from a different district, and as many Police Officers, not exceeding four hundred [Amendment, April 1, 1878], as the Board of Supervisors shall determine to be neccesary.

Apportionment.

Thereof an equal number in proportion to population, as near as may be, shall be selected from each district that shall

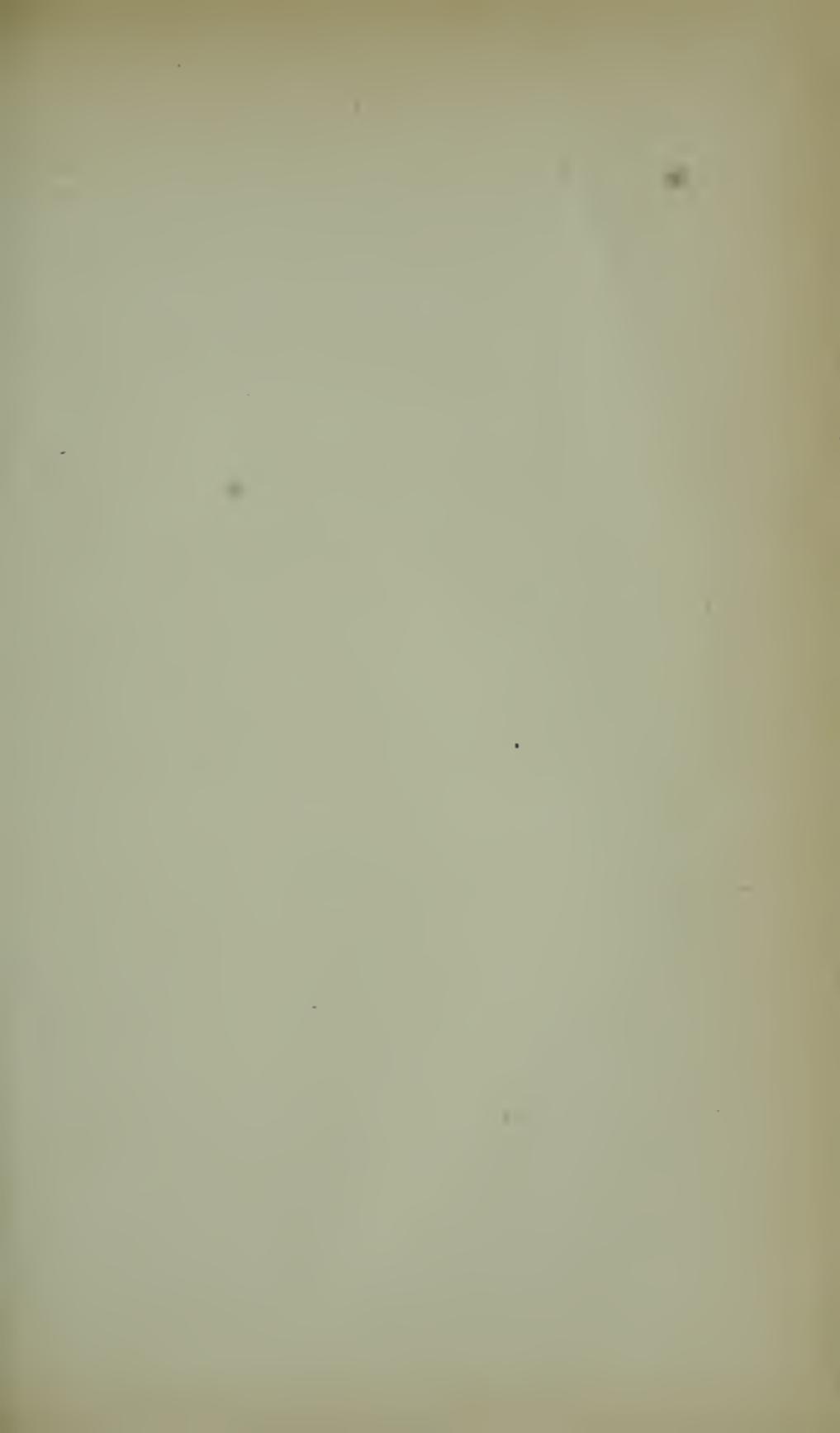
be situated, wholly or partly, within the limits specified in section second of the Act now repealed, entitled "An Act to re-incorporate the City of San Francisco," passed May sixth fifth], one thousand eight hundred and fifty-five.

NOTE.—For the purpose of this section the Act of May 6, 1855, is obsolete.

The latest Act apportioning population is that approved March 16, 1874, (page 366) which defines the Senatorial and Assembly Districts within the City and County of San Francisco, as follows:

NINTH DISTRICT.—Commencing at a point where the southerly line of the U. S. Military Reservation, known as the Presidio Reservation, intersects with the waters of the Pacific Ocean, thence meandering along the waters of said Ocean and the waters of the Bay of San Francisco northerly, easterly and southerly to the point where Washington street intersects with said Bay; thence westerly along said Washington street to its intersection with First avenue; thence northerly along said avenue to its intersection with the southerly boundary line of the said Presidio Reservation; thence westerly along the southerly boundary line of said Presidio Reservation to its intersection with the Pacific Ocean and the point of beginning.

TENTH DISTRICT.—Commencing at a point where the southerly boundary line of the Presidio Reservation intersects with the waters of the Pacific Ocean; thence easterly and along the southerly boundary line of said Presidio Reservation to the point where First avenue intersects with said boundary line; thence southerly, along said First avenue, to the point where Washington street intersects with said First avenue; thence easterly along said Washington street to its intersection with the waters of the Bay of San Francisco; thence southerly, along the line of said Bay, to the point of intersection of Market street with said Bay; thence westerly, along said Market









street, to the point where Geary street intersects with said Market street; thence westerly, along said Geary street, to where it connects with the Point Lobos Toll Road; thence along said Point Lobos Toll Road, and said toll road produced in a direct line to the Pacific Ocean; thence northerly, along said Ocean to the point of beginning.

ELEVENTH DISTRICT.—Commencing at a point on the line of Market street where Fourth street intersects with said Market street; thence easterly and along said Market street to the waters of the Bay of San Francisco; thence southerly and southwesterly along the line of the waters of said Bay to a point where Fourth street intersects with said Bay; thence northerly, along the line of said Fourth street, to the point of beginning.

TWELFTH DISTRICT.—Commencing at the intersection of Larkin and Geary streets, and running thence easterly along said Geary street to its intersection with Market street; thence southwesterly along the line of said Market street to the point of intersection of Fourth street with said Market street; thence southerly along said Fourth street to the point of its intersection with Channel street; thence southwesterly along said Channel street to the point of its intersection with Eighth street; thence northerly along said Eighth street to the point of its intersection with Market street; thence southwesterly along said Market street to the point of the intersection of Larkin street with said Market street; thence northerly along said Larkin street to the point of beginning.

THIRTEENTH DISTRICT.—Commencing at a point where the Point Lobos Toll Road, produced in a direct line westerly, intersects with the waters of the Pacific Ocean, and running thence easterly along said Point Lobos Toll Road to the point of its connection with Geary street; thence along said Geary street easterly to its intersection with Larkin street; thence southerly along said Larkin street to the point of its intersec-

tion with Market street; thence northeasterly along said Market street to the point where Eighth street intersects with said Market street; thence southeasterly along said Eighth street to its intersection with Channel street; thence north-easterly along said Channel street to the point of its intersection with Fourth street; thence southeasterly along said Fourth street to the point of its intersection with the Bay of San Francisco; thence southerly along the line of the waters of said Bay to the point of intersection of the boundary line between the City and County of San Francisco, and the County of San Mateo, with the waters of said Bay; thence westerly along said boundary line to the point of its intersection with the Pacific Ocean; thence northerly along the line of said Ocean to the point of beginning.

Qualification of Police Captains and Officers.

SEC. 24. No person can be appointed Captain of Police or Police Officer, unless he be a citizen of the United States and of this State, and a resident and qualified voter of the City and County ; and in case of each Police Officer, a resident of the district from which he is chosen, and also, before his appointment, shall produce to the said President of the Board of Supervisors, Chief of Police, and Police Judge, a certificate signed by at least twelve free-holders and qualified voters of the said City and County, who, in case of application for appointment of a Police Officer, must also be residents of the district from which he is to be appointed, stating that they have been personally and well acquainted with the applicant for one year or more next preceding the application, and that he is of good repute for honesty and sobriety, and they believe him to be, in all respects, competent and fit for the office.

Petitions must be preserved.

All the certificates so produced shall be carefully preserved in the office of Chief of Police.





Police Captains and Officers may be suspended or removed from office in certain cases under general regulations of the Board of Supervisors.

Salary of Officers.

Salary of Chief.

Salary of Property Clerk.

Increase of salary of Police Captains and Officers.

Harbor Police.

Appointment of Local Police Officers.

Increase of Police force to 150 members.

Appointment and salary of Clerk of Chief of Police.

Salary of Captain of Harbor Police.

Police prohibited from interfering in politics.

Removal of Police Officers for political or partisan causes, reasons or purposes prohibited.

SEC. 25. Police Captains and Officers may be suspended from office by the Chief of Police, and with the concurrence of the President of the Board of Supervisors and Police Judge, removed from office, for :

Official negligence;

Inefficiency, or

Misconduct,

Under such general rules and regulations, not contrary to law, as may have been established by the Board of Supervisors.

Salary of Old Police.

They shall receive from the treasury of said City and County, payable out of the Police Fund, such compensation as may be fixed by the Board of Supervisors, not exceeding one thousand eight hundred dollars a year, each, for Captains, and one thousand two hundred dollars a year, each, for Police Officers.

NOTE.—Attention is called to subsequent legislation quoted in Notes A, B, C, D and E.

NOTE A.—Extract from "An Act to fix and regulate fees

and salaries of Officers in the City and County of San Francisco.”  
—Approved May 17, 1861, 554.

Salaries of Police Department. Property Clerk.

SEC. 1. Salaries shall be allowed and paid to the following Officers of this City and County of San Francisco, as in this Act provided, and not otherwise, and shall be in full compensation for all official services required of them by law.

\* \* \* \* \*

POLICE DEPARTMENT.

To the Chief of Police, \$4,000 per annum.

To four Captains of Police, \$125 per month each.

To Policemen, not exceeding forty, the number to be determined from time to time by the Board of Supervisors, \$100 per month each.

Provided, that one of the same detailed for Clerk in the office of the Chief of Police, to be appointed by him, shall receive \$125 per month.

NOTE B.—Extract from “An Act to confer additional powers upon the Board of Supervisors, etc.” Approved April 4, 1863, 168.

Increase of Salary of Police Property Clerk.

The Board of Supervisors of the City and County of San Francisco are hereby authorized, etc. \* \*

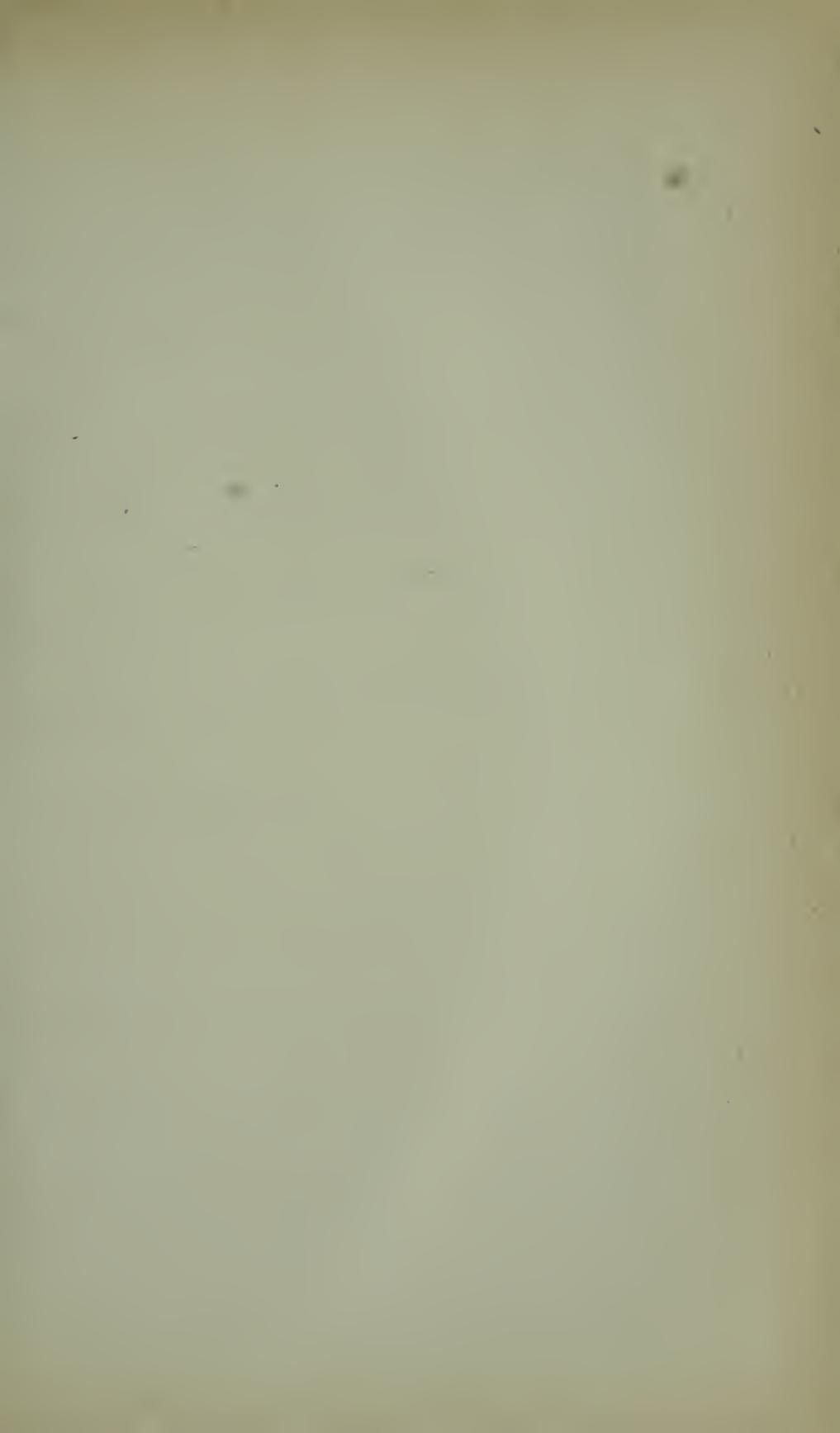
16th. To increase the salary of each member of the Police force of said City and County \$25 per month, and to diminish the same again, at pleasure, to the present salary of said Police force, etc.

NOTE C.—Extract from “An Act to confer additional powers on the Board of Supervisors, etc.” Approved April 4, 1864; 502.

SEC. 1. The Board of Supervisors are hereby authorized, etc. \* \* \* \* \*

Increase of Police Force. Harbor Police.

11th. To increase the Police force of said City and





County, as from time to time may be deemed necessary by the said Board of Supervisors, to not exceeding one hundred members, including the number now allowed by law, a portion of which increase may constitute a Harbor Police in and for said City and County, etc.

Local Police.

12th. To authorize and empower the Police Commissioners of said City and County to appoint and regulate local Policeman, whenever, in their judgment, the necessities of said City and County require it; provided, that no money shall be paid out of the Treasury of the said City and County to said local Policemen.

See section 23, chapter 3, order No. 697, as amended by order No. 1196, page 38 post. Also section 3, Act of April 1, 1878, page 6 ante.

NOTE D.—“An Act to increase and regulate the Police force of the City and County of San Francisco.” Approved March 23, 1872, 512.

Increase of the Police Force to one hundred and fifty Members.  
Salaries Clerk of Chief of Police.

Captain of Harbor Police.

SEC. 1. The Board of Supervisors of the City and County of San Francisco shall have power to increase the Police force of the said City and County, as from time to time may be deemed necessary by said Board of Supervisors, to not exceeding one hundred and fifty members, including the number now allowed by law, to be appointed by the Police Commissioners, as now provided by law.

The salaries of the additional officers hereby authorized shall be of the same amount, not exceeding one hundred and twenty-five dollars per month, and shall be paid in the same manner and at the same time as other members of the said Police force are now or shall hereafter be paid.

The Chief of Police of said City and County may detail a regular Police officer to act as his Clerk, who shall receive the same salary as the Property Clerk of the Police Department.

The Captain of the Harbor Police shall receive the same salary as is now or may hereafter be paid to Police Captains.

Policemen must not interfere in politics, nor be removed from office for political or partisan causes, reasons, or purposes.

SEC. 2. No member of the Police force of the City and County of San Francisco shall be allowed to interfere in politics on the day of election, or at any other time, while employed on said Police force; nor shall be removed from office for political or partisan causes, reasons or purposes.

NOTE.—For further prohibition of political power influence or control, see section 7, Act of April 1, 1878, page 11 ante.

NOTE E.—See sections 1 and 2 of Act of April 1, 1878, page 5 ante.

Officers shall not become bail for Prisoners, or without written consent of Police Commissioners receive rewards.

Officers shall be prompt and vigilant in detection of crime and arrest of offenders, etc.

SEC. 26. \*Neither the Chief of Police, Captains or any officer of Police, shall follow any other profession or calling, become bail for any person charged with any offense whatever, receive any present or reward for official services rendered, or to be rendered, unless with the knowledge and approbation of a majority of the Police Commissioners, to wit: the Police Judge, President of the Board of Supervisors, and Chief of Police of the City and County of San Francisco—such approbation to be given in writing; nor be allowed pay for any period during which they shall absent themselves from public duty, unless such absence necessarily result from indisposi-





tion or disability occasioned by injuries suffered while in the discharge of official duty.

Duties of Police.

Police Officers in subjection to the orders of the respective Captains, and all under the general direction of the Chief of Police, shall be prompt and vigilant in the detection of crime, the arrest of public offenders, the suppression of all riots, frays, duels and disturbances of the public peace, the execution of process from the Police Judge's Court, in causing the abatement of public nuisances, the removal of unlawful obstructions from the public streets, and the enforcement of the laws and regulations of Police.

\*As amended March 24, 1859, 131.

Chief of Police may appoint Special Officers for twenty-four hours in case of emergency, or public danger.

Uniform and badge of office to be worn by Police.

SEC. 27. In case of great public emergency or danger, the Chief of Police may appoint an additional number of Policemen, of approved character for honesty and sobriety, who shall have the same powers as other Police Officers for twenty-four hours only, but without pay.

Uniform.

The Chief of Police, Captains, and every officer of the permanent force, shall provide themselves with a uniform and badge of office, to be prescribed by regulations of the Board of Supervisors, which shall be worn by them upon all occasions, with such exceptions as may be permitted by the Chief of Police in the performance of detective duty.

Charge of oppression or official misconduct when presented by a citizen and verified on oath, against any Police Captain or Officer, shall be received, considered and determined by Police Commissioners.

Removal of Chief of Police, etc.

SEC. 28. Charges of oppression or official misconduct,

when presented by any citizen of the said City and County, against any Police Captain or Officer, and verified on oath, setting forth the specific acts complained of, shall be received and attentively considered and determined by the Police Judge, President of the Board of Supervisors, and Chief of Police, giving to the accused due notice, and an impartial hearing in defense.

The Chief of Police, Police Judge, and all other officers now acting or hereafter to be elected or appointed under the provisions of this Act, may be accused, tried, and removed from office in the mode prescribed by the laws of this State for the removal of civil officers otherwise than by impeachment.

The Board of Supervisors shall establish Police Stations, designate Prisons, Etc.

SEC. 29. The Board of Supervisors shall, from time to time, establish a convenient number of Police Stations ; determine within what districts the Police Officers and Captains shall usually be distributed and employed ; designate the prisons to be used for the reception of all persons arrested, or convicted and sentenced for public offenses, in cases not provided for by law ; [and] appoint, during the pleasure of the Board, the keeper of such prisons.

EXTRACT FROM AN ACT TO CONFER FURTHER POWERS UPON  
THE BOARD OF SUPERVISORS OF THE CITY AND COUNTY  
OF SAN FRANCISCO.

[Approved April 25, 1863, 540.]

Power of Board of Supervisors to regulate Police.

The Board of Supervisors shall have power by regulation or order :

First. To regulate the police and police force of said City and County, and to prescribe their powers and duties.





EXTRACT FROM AN ACT TO FACILITATE AND INCREASE THE  
COLLECTION OF STATE AND COUNTY AND MUNICIPAL  
LICENSES IN THE CITY AND COUNTY OF SAN FRANCISCO.

[Approved March 30, 1872, Stat. 1871-2, page 736.]

Police Commissioners empowered to revoke licenses.

SEC. 5. The Police Commissioners of the City and County of San Francisco are hereby authorized and empowered to revoke any licenses provided to be collected under the provisions of this Act upon the conviction in the Police Judge's Court of any person of disorderly or improper conduct, or any offense upon the premises of any person holding a license, or upon the conviction of the person holding said license of any offense which, in the judgment of said Commissioners, ought to disqualify such person from holding such license.

EXTRACT FROM AN ACT TO FACILITATE AND EQUALIZE THE  
COLLECTION OF LICENSES IN THE CITY AND COUNTY OF  
SAN FRANCISCO. APPROVED MARCH 23, 1878.

Applicants for liquor licenses shall obtain written consent of Police Commissioners.

RETAIL LIQUOR DEALERS.

Amount.

FIRST CLASS.—All sales over \$15,000....Per Quarter, \$41 00

SECOND CLASS.—All sales under \$15,000... “ “ 21 00

SEC. 5. Provided: That on and after January 1st, 1879, no license as a retail liquor dealer shall be issued by the Collector of Licenses unless the person desiring the same shall have obtained the written consent of a majority of the Board of Police Commissioners of the City and County of San Francisco to carry on or conduct said business, but in case of refusal of such consent, upon application, said Board of Police Commissioners shall grant the same upon the written

recommendation of not less than twelve citizens of San Francisco, owning real estate in the block or square in which said business of retail liquor dealer is to be carried on, or in the four blocks or squares bounding the same.

Sellers of cider, soda water, etc., subject to same rule.

SEC. 6. Every person who sells cider, sarsaparilia, ginger pop, or soda or mineral water, except from a fountain, in quantities of less than one quart, shall, in addition to the license required to be paid, be subject to the same conditions and provisions contained in the preceding section.

Penalty.

SEC. 7. Every person violating any of the provisions of Sections 5 or 6 of this Act, or falsely representing himself as being a citizen of San Francisco, and owning real estate in the blocks or squares therein specified, shall be guilty of a misdemeanor.

### EXTRACT FROM THE "CONSOLIDATION ACT."

Power of Chief of Police to administer oaths.

SEC. 86. \*The President of the Board of Supervisors, Auditor, Chief of Police, President of the Board of Education, and each Supervisor, shall have power to administer oaths and affirmations concerning any demand on the treasury, or otherwise relating to their official duties.      \*      \*      \*

\*As amended April 18, 1857, page 209.





## EVIDENCE.

### EXTRACT FROM CODE OF CIVIL PROCEDURE.

#### ADMINISTRATION OF OATHS AND AFFIRMATIONS.

Judicial and Certain Officers authorized to administer Oaths.

**SEC. 2093.** Every Court, every Judge, or Clerk of any Court, every Justice, and every Notary Public, and every officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has power to administer oaths or affirmations.

Form of ordinary Oath to a Witness.

**SEC. 2094.\*** An oath, or affirmation, in an action or proceeding, may be administered as follows, the person who swears or affirms expressing his assent when addressed in the following form : " You do solemnly swear [or affirm, as the case may be,] that the evidence you shall give in this issue (or matter) pending between —— and ——, shall be the truth, the whole truth, and nothing but the truth, so help you God."

\*As amended, March 24, 1874.

Form may be varied to suit Witness's belief.

**SEC. 2095.** Whenever the Court before which a person is offered as a witness is satisfied that he has a peculiar mode of swearing, connected with or in addition to the usual form of administration, which, in his opinion, is more solemn or obligatory, the Court may, in its discretion, adopt that mode.

Non-Christians may be sworn according to their religion.

**SEC. 2096.** When a person is sworn who believes in any other than the Christian religion, he may be sworn according

to the peculiar ceremonies of his religion, if there be any such.

Any person who prefers it may declare or affirm.

SEC. 2097. Any person who desires it may at his option, instead of taking an oath, make his solemn affirmation or declaration, by assenting, when addressed, in the following form : " You do solemnly affirm [or declare] that the evidence you shall give in this issue (or matter) pending between —— and —— shall be the truth, the whole truth, and nothing but the truth, so help you God."

EXTRACT FROM ORDER NO. 697 OF THE BOARD OF  
SUPERVISORS, AS AMENDED DEC. 31, 1874,  
BY ORDER 1196 OF SAID BOARD.

CHAPTER I.

RELATING TO THE POLICE DEPARTMENT.

Permanent Police Force.

SECTION 1: The permanent Police Force shall consist of four Captains of Police, and one hundred and fifty Police Officers, whose compensation shall be: For Captains of Police, one hundred and fifty dollars per month; and for Police Officers, one hundred and twenty-five dollars per month, payable out of the General Fund.

NOTE.—See Resolution No. 12,160, N. S.

Resolution No 12,160—New Series.

Resolution No. 12,160 (N. S.)—Adopted in the Board of Supervisors April 8, 1878.—Resolved, That the Board of Police Commissioners appointed under and in pursuance of





an Act of the State Legislature, passed at its last session, are hereby authorized and empowered to appoint one hundred additional Police Officers—the same being necessary in the judgment of this Board for the protection of life and property.

Police Office and Police Stations.

SEC. 2. The Chief of Police shall keep his office in the City Hall.

There shall be one Police Station at the City Hall, provided with cells for the detention and safe-keeping of prisoners.

There shall be a Police Station at or near the corner of Davis and Pacific streets, for the use of the officers detailed for Harbor duty.

There shall also be a Police Station at or near each of the following places, namely:

Corner of Sixteenth and Folsom streets;

Fourth and Harrison streets ;

Tenth and Howard streets ;

Hayes and Laguna streets.

Register of Arrests and Entries, how made.

SEC. 3. The Chief of Police shall provide, and cause to be kept, at the Police Station in the City Hall, by the officer in charge, a Register of Arrests.

Upon such register there shall be entered, as soon as an arrest shall be reported, a statement, showing in a clear and distinct manner, the date and hour of such arrest, the name of the person arrested, the name of the officer making the arrest, the name of the complaining witness and his place of residence, the offense charged, and a description of any property found upon or in possession of the person arrested.

Transcript of Entries.

SEC. 4. The Chief of Police shall cause to be made out and delivered to the Police Judge, at or before nine o'clock in

the forenoon of every day, Sundays included, an exact transcript of all the entries made in the Register of Arrests since the last preceding report.

Such transcript shall be headed "Office Chief of Police—Daily Report," and shall be truly dated, and certified by the Chief of Police, or Captain in charge, to be correct.

Register in Police Office.

SEC. 5. The Chief of Police shall keep in his office, open to public inspection, and on a desk accessible to every citizen, a register, in which shall be transcribed every entry made in the Register of Arrests, within one hour after such entry shall have been made.

Book for Entry of Nuisances and Violation of Orders.

SEC. 6. The Chief of Police shall provide and keep in his office, a book open and accessible to every citizen, wherein notice may be given of the existence of any nuisance, or the violation of any law or any order of the Board of Supervisors.

Book for Entering Information of Offenses Committed, and to whom accessible.

SEC. 7. The Chief of Police shall provide and keep in his office, a book, wherein shall be entered daily all information he may receive respecting offenses committed, of suspected persons or places, of property stolen, the name of the officer, if any, on duty where any offense shall have been committed, and every other fact and circumstance that may lead to the arrest of criminals or the recovery of stolen property. Such book shall be accessible only to the Police Judge, District Attorney, Assistant District Attorney and Mayor.

Duty of Police in Case of Fire.

SEC. 8. In case of fire the Chief of Police shall proceed with all the force off duty, and be vigilant in preserving





order and preventing crime, in the immediate vicinity of the fire.

Police not to Visit Saloons, etc., while on Duty.

SEC. 9. No Police Officer shall, while on duty, visit any drinking saloon, house of ill-fame, theatre, circus, or other place of business or amusement, except he be in the discharge of his duty.

Police Uniforms and Badges.

SEC. 10. The Chief of Police and all officers of the permanent police force, shall provide themselves with uniforms and badges of office, which shall be worn by them upon all occasions, with such exceptions, on the part of officers performing detective duty, as may be permitted by the Chief of Police.

Police Uniforms and Badges described.

SEC. 11. The uniform worn shall consist of a single-breasted coat of a dark gray cloth, to button close up to the neck, with nine black buttons on the breast, a turn-down black velvet collar, the skirt of the same extending to the bend of the knee, with pants and vest of the same material and color. The Captains and Officers of Police shall wear the badges and stars now respectively worn by them, which badges and stars shall be provided with eyes, and permanently stitched to the left breast of the coat, at a point opposite to the fourth button from the top, and distant two and one-half inches therefrom. The overcoat must be of the same cloth as the uniform, and buttons the same as the uniform, and be made a plain sack, to reach just below the bend of the knee, with pockets in the side, with flaps that may be worn in or outside the pockets, double-breasted, and made so as to button close up to the chin, with black velvet collar. The Captains and Officers of the Police shall each wear a black Alpine hat, similar in shape and style to the sample hat made

for, and now in possession of the Board of Police Commissioners.

False Representation of being a Police Officer or Member of the Fire Department and Penalty.

SEC. 12. No person shall falsely represent himself to be a Police Captain, or Police Officer, or Member of the Fire Department, or shall wear any Police, or Fire Department badge, with intent to deceive, or shall use any signs, badges or devices used by the Police Department, or by the Fire Department, with the intent aforesaid.

Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor; and upon conviction thereof, shall be punished by a fine not less than twenty dollars nor more than five hundred dollars, or by imprisonment in the County Jail not less than ten days, nor more than three months.

Prohibition against Police Discharging Persons from Custody.

SEC. 13. Neither the Chief of Police, nor any Captain of Police, or Police Officer, shall discharge any person arrested, from custody, except by order of the Police Judge, or other competent authority.

Duties of Police Captains.

SEC. 14. It shall be the duty of each Police Captain to enter in a book the name of each Police Officer under his charge; to note with exactitude any and every absence from duty of any policeman; to make a return monthly to the Chief of Police of the days and nights which each man has been on duty, and the days and hours he may have been absent; and to report to the Chief of Police any neglect of duty, and any violation of the rules of the department, on the part of any Police Officer.

Police Officers not to Solicit Business for Attorneys.

SEC. 15. It shall be unlawful for any Captain of Police,









Police Officer, Prison-Keeper, Local Police Officer, or any other person connected with the Police Department to solicit from any person legal business, or the defense or prosecution of, or for any case pending, or about to be pending in any court in said City and County, for any person practicing law; or to urge, or recommend, or suggest to any person, whether in legal detention or not, that any particular person practicing law should be employed for the defense or prosecution of such person or any other person.

Officer must enter name and charge at once, and notify Attorney requested by Prisoner.

SEC. 16. It shall be the duty of every Police Officer or person connected with the Police Department, making the arrest of any person, or confining any person in the City or other Prison, to immediately enter or cause to be entered the name of such person in the Register of Arrests; the charge upon which such person has been arrested, or is detained, and the place and time of such arrest, together with the name of the officer making such arrest, or such detention, which book shall be kept in the main prison, and it shall be the duty of such officer or person so making such arrest or detention, if he shall be requested so to do, by the person so arrested or detained, to notify at once any attorney-at-law designated by said person, and having an office in said City and County, that said person so detained wants to see him; said notification may be either personal or by notice left at the office of said attorney.

The person so notified shall have the right, and it shall be the duty of the person having charge of the place of such detention, to permit such person to confer at once with the person so detained and who has desired to see him.

Penalty.

SEC. 17. Any officer or person mentioned in section 15,

of this chapter, who violates any of the provisions of this chapter, is guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars, or by imprisonment in the County Jail not less than twenty-five days nor more than one hundred days, or by both such fine and imprisonment.

Police Commissioners must suspend and remove offending Officers.

SEC. 18. Upon information on oath being laid before the Board of Police Commissioners of said City and County, that any officer or person mentioned in Section 15, of this chapter has violated the provisions of this order, it is hereby made the duty of said Board to at once suspend such officer or person from duty, without pay, and to investigate the same as soon as possible, and if the charge against such officer or person be sustained, then the said Board shall forthwith dismiss said officer or person from said Police Department, and bring the charges necessary against him in the Police Court.

Suspension of Police Officers by Chief.

SEC. 19. The Chief of Police shall have power to suspend from duty any Police Captain or Police Officer (regular or local) who may be charged by a Police Captain, in his report, or by a citizen, in a verified complaint, with neglect of duty, disobedience of orders, inefficiency, or official misconduct.

In case of charges brought to the notice of the Chief of Police against any Police Captain or Police Officer (regular or local), by any person, which, in his judgment, do not require the immediate suspension of the person charged, he shall within twenty-four hours thereafter, furnish to the Mayor and the Police Judge copies of such charges, with the name of the person making the same.





As soon thereafter as convenient, they shall examine into the truth of said charges, if in their judgment the circumstances require it, and if, on investigation and trial of the offender the charges be sustained, they shall inflict such punishment as the case may merit.

Suspension: Charges to be furnished and copy served on Accused.

SEC. 20. In case of the suspension of a Police Captain or Police Officer the Chief of Police shall, within twenty-four hours after such suspension, furnish to the Mayor and the Police Judge written charges against the Captain or Officer suspended, specifying the grounds of the suspension; and within the same time shall cause to be served upon the accused a copy of such charges.

Trial of Charges by Police Commissioners.

SEC. 21. Within two days after the Mayor and the Police Judge shall be furnished by the Chief of Police with written charges against any Police Captain or Police Officer, the Police Commissioners shall fix a time for the trial of such charges, and notify the accused thereof—which time shall not be less than two days, nor more than eight days thereafter.

At the time appointed, the Police Commissioners shall meet and proceed to hear, consider and decide upon such charges, the Police Judge acting as Chairman.

The accused shall have the right to defend in person and by counsel.

The Chairman of the Board of Police Commissioners shall have power to issue subpoenas, to compel the attendance of witnesses, to administer oaths, and, by and with the consent of the other Police Commissioners, to punish for contempt.

Retention of Decision upon Charges.

SEC. 22. \*Within three days after the conclusion of the hearing provided for in Section 21, the Police Commissioners shall render their decision upon the charges made.

If the accused be found not guilty of any offense or misconduct, or any inefficiency, specified in the charges, he shall be reinstated;

If guilty, he may be suspended or removed from office, in the discretion of the said Commissioners;

If he be reinstated by the Commissioners, he shall be entitled to his pay the same as if he had not been suspended;

If he be suspended he shall not be entitled to pay during the time his suspension shall continue;

If he be removed from office, his pay shall cease from the time of his suspension

\*As amended March 15, 1876, by Order No. 1266.

Police Commissioners may Appoint and Regulate Local Policemen.

**SEC. 23.** In addition to the Regular Police Officers allowed by law, the Board of Police Commissioners are authorized and empowered to appoint Local Policemen, upon the petition of citizens and property-owners who may desire their services, whenever in the judgment of said Commissioners the necessities of said city and county require such appointments to be made, and to make and prescribe rules and regulations for their government, provided they shall receive no pay from . said city and county.

NOTE.—See Sec. 3, Act of April 1, 1878, page 6 ante.

—Also see § 12, Sec. 1, of Act of April 4, 1864, page 23 ante.

#### ORDER NO. 1,226.

##### PROHIBITING THE CARRYING OF CONCEALED DEADLY WEAPONS.

[Approved July 9, 1875.]

The People of the City and County of San Francisco do enact  
as follows :

##### Prohibition.

**SECTION 1.** It shall be unlawful for any person, not being a public officer or traveler, or not having a permit from the





Police Commissioners of this City and County, to wear or carry, concealed, in this City and County, any pistol, dirk or other dangerous or deadly weapon.

Penalty.

Every person violating any of the provisions of this order shall be deemed guilty of a misdemeanor and punished accordingly.

Traveler defined.

Such persons, and no others, shall be termed "travelers" within the meaning of this order, as may be actually engaged in making a journey at the time.

Police Commissioners may grant permits.

The Police Commissioners may grant written permission to any peaceable person, whose profession or occupation may require him to be out at late hours of the night, to carry concealed deadly weapons for his own protection.

RESOLUTION OFFERING THE BOARD OF POLICE COMMISSIONERS THE USE OF THE CHAMBER OF THE BOARD OF SUPERVISORS.

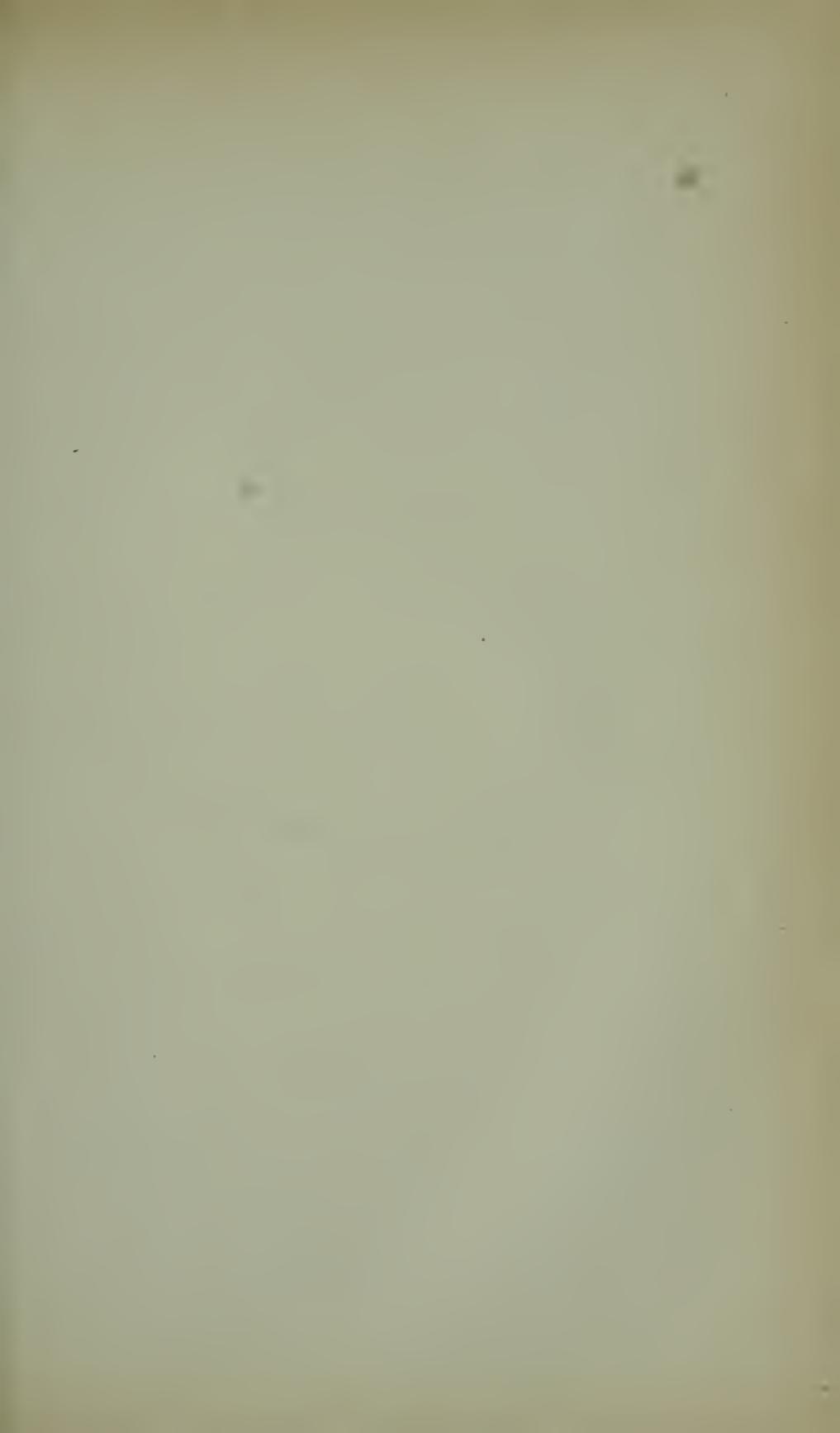
Resolution No. 12,150 (New Series), adopted in the Board of Supervisors, April 8, 1878 :

RESOLVED, That the Board of Police Commissioners be and are hereby tendered the use of the Rooms of the Board of Supervisors in which to hold their regular or special meetings.

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IN THE

## SUPERIOR COURT

OF THE

City and County of San Francisco,

DEPARTMENT NO. 5.



*In the Matter of ISAAC S. KALLOCH,  
Mayor of the City and County of San  
Francisco.*



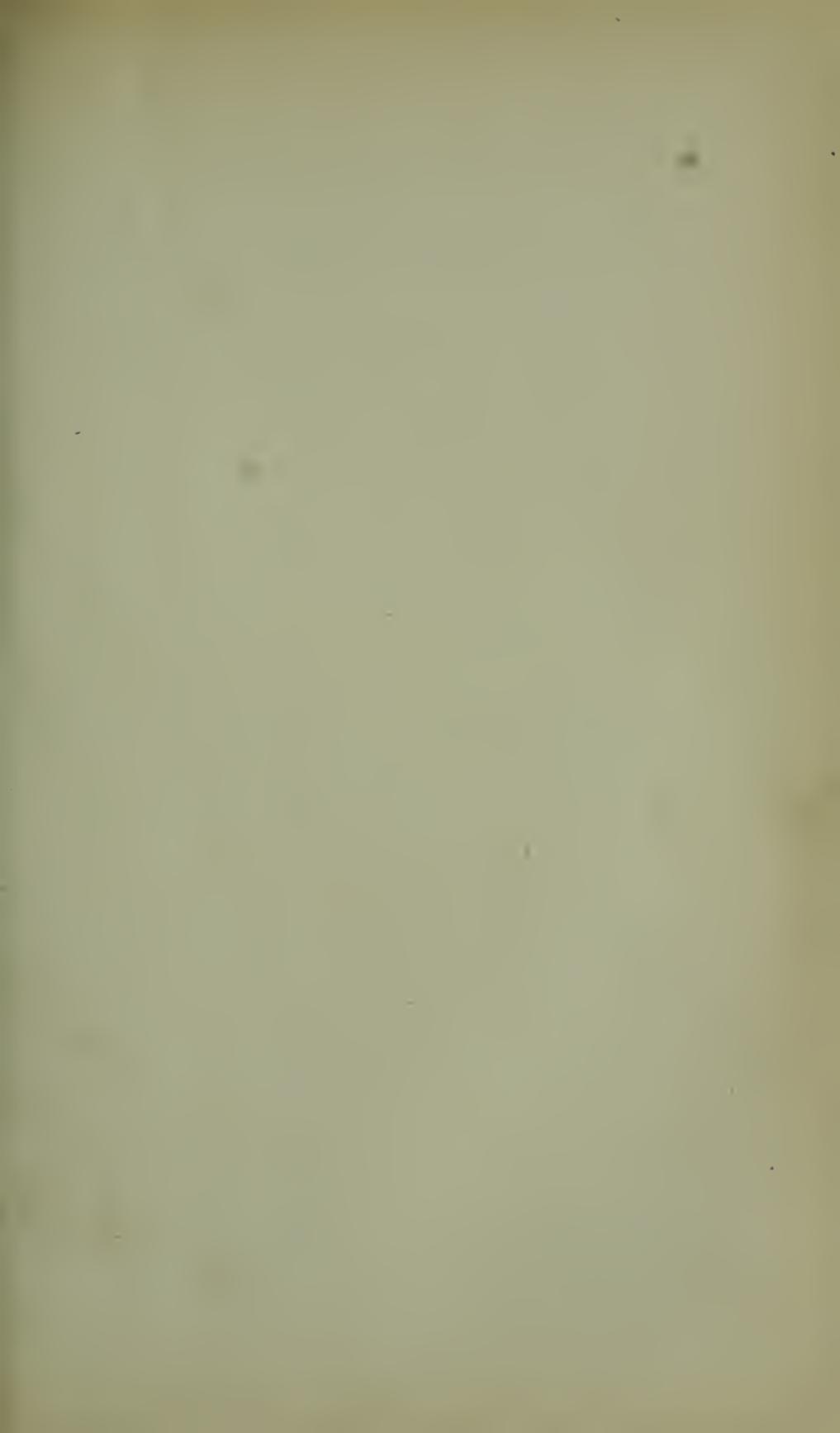
ARGUMENT OF W. H. L. BARNES



REPORTED BY CLEMENT BENNETT,

*Short-Hand Writer.*





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No. 1173.

**IN THE SUPERIOR COURT**

OF THE

*City and County of San Francisco,*

DEPARTMENT NO. 5.

IN THE MATTER OF  
AAC S. KALLOCH, Mayor of  
the City and County of San  
Francisco.

*Special Proceedings under the Provisions of an Act  
of the Legislature of the State of California,  
entitl'd "An Act providing for the Removal of  
Civil Officers for a Violation of Official Duties,"  
Approved March 30th, 1874.*

## ARGUMENT OF W. H. L. BARNES

In support of the petition of Joseph A. Coolidge,  
and in opposition to the General Demurrer inter-  
ceded by Respondent, through his coun-  
tessrs. Henry E. Highton, W. T. Baggett, and  
Harry Thornton.

C. CARY, Judge.

Hon. ROBERT FERRAL,  
Hon. J. F. SULLIVAN,  
CHARLES HALSEY,  
Hon. L. D. LATIMER. } *Superior Judges  
Assisting.*

*General Barnes.*—May it please your Honors: We come now to what in our judgment is, and we frankly admit it, the strain of this case. The argument addressed to the Court this forenoon, is in the nature of a general demurrer to the whole case presented by this petition. It admits, for the purpose of the argument only, that the Respondent has committed all the acts charged. The demurrer is not addressed to a defect in any portion or subdivision, but it is addressed to the whole case, and stands in position for the purposes of this argument as if we had passed through all the stages of the trial; had demonstrated to your Honors reasonable satisfaction that all and singular the acts which are made the basis of this petition were thoroughly, substantially, and completely established. Upon this state of facts the question arises, Do these acts come within the purview of the act of 1874, and has the respondent been guilty of such willful violation of duty as, under the provisions of Section 1 of the Act, requires that he shall be removed from his office?

I propose to meet the question fairly and fully, if I can, without any evasion of the consequences which may follow from the determination; because it is not our desire to proceed with the further investigation of this case, any more than we should proceed to its final conclusion, if we were satisfied, or had been up to this moment satisfied by the argument adduced on the other side, that this application ought not to be sustained; and I trust I do not flatter myself too much in asserting, that if I could see here and

now that the argument is one that ought to weigh in the consideration of the Court, to the extent of dismissing this proceeding, I should at once concede it.

I do not make the concession. I ask for the statute no liberal construction. I do not petition the Court to "legislate," as was intimated this morning, nor to give to the statute any other or different meaning than the closest legal judgment can give it. The statute, in my judgment, and I so press it on your Honors, is sufficiently broad and ample to include within its terms every single one of the charges presented in this petition; and without undertaking to criticise in detail their argument, I think my learned friends have narrowed the scope of the act by their construction, and to an extent to which I think this Court will not give its adherence.

I will not occupy time in debating the proposition presented by Mr. Baggett, that the object of the concluding portions of Section 1 of this act was merely to give to a public officer, or the Board of Election Commissioners, or any other Board which possesses the power of appointment to subordinate offices, the power of removal; or that the appointing power shall be compelled under this statute to come into Court to remove a defaulting, disobedient, or neglectful clerk. I think the argument is not worthy of attention. The act has a wider scope. I will read Section 1:

"Any member of any Board of Directors, Board of Commissioners, or other Board of officers, state, city, county, or district, or other person who has been elected, or appointed, or who shall

hereafter be elected or appointed to hold, control, build, or manage any public building of this state, or of any county, city, or city and county, in this state, or to hold, control, manage, or disburse any of the public funds of this state, or of any county, city, or city and county in this state, or any person acting by, through, or under the authority of any such Board of Directors, Board of Commissioners, or other Board of officers, or other person, as aforesaid, or any other officer in the state who shall be guilty of a willful violation of any of the provisions of the statute under which he or they were or may be hereafter elected or appointed, or of any other statute or statutes of this state prescribing or defining their duties and powers, or passed for their government and control, or who shall be guilty of any other willful violation of official duty, shall be deprived of his office, and otherwise punished, in accordance with the provisions of section two of this act." Laws of 1873-4, p. 911.

Observe how broad the language is. It covers the case of *any* officer in this State who shall willfully violate, not only the provisions of the statute under which he may have been elected or appointed, or of any other statute or statutes of this State, prescribing or defining his duties and powers, *but also any law passed for his government and control*, or who shall be guilty of any other willful violation of official duty.

The argument this morning was confined to certain sections of statutes of this State, some in existence, and some long since repealed, prescribing certain official acts to be performed by various public officers and declaring various

duties to the discharge of which the Mayor of this city and county was assigned.

These were not all of the statutes of this State passed for the government and control of officers in this State, nor are they all the enactments adopted by the Legislature or prescribed by constitutional enactment,—the highest form of legislation,—for the government and control of the Mayor of this city.

This petition alleges that the respondent was at the proper time duly elected Mayor of the "third commercial city of the union;" that he entered upon his office and took the oath prescribed by Section 904 of the Political Code, to the language of which I call the attention of the Court:

"SEC. 904. Before any officer enters on the duties of his office, he must take and subscribe the following oath: I do swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of\_\_\_\_\_, according to the best of my ability." That he gave the bond required by law, and at the time prescribed entered on the discharge of the duties of his exalted station. What laws were then in force for the government and control of officers within this State? I call your Honors' attention to the Act of the Legislature passed April 3, 1876. I note the sections, so your Honors can get them together, and I will subsequently apply them in what I shall endeavor to say:

"Section 3. It shall be unlawful for any such railroad company to grant free passes for travel within this state, except to the following persons:

*First.* Directors, officers, agents, and employees of the company and their families.

*Second.* Officers and agents, and railroad contractors of other railroads or telegraph companies.

*Third.* Destitute persons.

*Fourth.* The members of the Board of Transportation Commissioners of the State of California, their secretary, attorney, and employees, while traveling in the discharge of their official duties.

*Fifth.* Public messengers, troops and other persons, who are under existing laws, or any contract of such railroad company with this state, to be transported free of charge.

"Every such railroad company shall keep a record of all free passes issued by it, except such as are issued by it to officers, agents and employees and their families, and of the several classes thereof, and of the number of times each pass shall be used, and shall report the same to the Transportation Commissioners whenever required."

"Section 6. Any such railroad Company that issues free passes to any person, or persons, other than those specified in Section 3 of this chapter, or shall permit any person whatever, to travel free upon their cars, except upon the exhibition of free passes issued as provided in said section, shall forfeit and pay for each offence, the sum of one hundred dollars, to be recovered and paid over, one half to the State Treasurer, and the other half to the informer, as in the last section provided."

Seetion 5510, Hittell's Code, Vol. 1. "Street railroads are governed by the provisions of Title 3 of this part, so far as they are applicable, unless such railroads are therein specially excepted."

Also, Section 651 of the Penal Code, subdivision 2, "Every officer of the State, or any county, city, or township therein, who keeps or retains

any part or portion of the salaries or fees allowed by law, to his deputy clerk, or subordinate officer, is guilty of a felony."

Also the Constitution of this State, Article XII, Section 19, "No railroad or other transportation company shall grant free passes, or passes or tickets, at a discount, to any person holding any office of honor, trust, or profit, in this State; and the acceptance of any such pass or ticket, by a member of the Legislature, or any public officer, other than Railroad Commissioner, shall work a forfeiture of his office."

Also to the following sections of the Penal Code, relating to the public peace:

Chapter 4. Section 719, Penal Code. "Police in cities and towns and their attendance at exposed places. Organization and Regulation of the Police.

"The organization and regulation of the police in the cities and towns of this State, is governed by special laws."

Section 720. "*The Mayor* or other officer having the direction of the police of a city or town must order a force sufficient to preserve the peace, to attend any public meeting, when he is satisfied that a breach of the peace is reasonably apprehended."

Section 726. "Where any number of persons, whether armed or not, are unlawfully or riotously assembled, the Sheriff of the county and his deputies, *the officials governing the town or city*, or the justices of the peace and constables thereof, or any of them, *must go among the persons assembled, or as near to them as possible, and command them in the name of the people of the State, immediately to disperse.*"

Section 728. "When there is an unlawful or riotous assembly *with the intent to commit a felony or to offer violence to person or property, or to resist by force the laws of the State or of the United States, and the fact is made known to the Governor, or to any Justice of the Supreme Court, or to the District Judge of that judicial district, or to the County Judge or Sheriff of the county, or to the Mayor of a city, or to the President of the Board of Supervisors of the cities and counties of Sacramento and San Francisco,* either of those officers may issue an order directed to the commanding officer of a division or brigade of the organized National Guard or enrolled militia of the State, to order his command, or such part thereof as may be necessary, into active service, and to appear at a time and place therein specified, to aid the civil authorities in suppressing violence and enforcing the laws."

Section 731. "Whenever any portion of the National Guard or enrolled militia shall have been called into active service to suppress an insurrection or rebellion, to disperse a mob, or to enforce the execution of the laws of this state, or of the United States, it shall be competent for the Commander in Chief, or for the General acting in his stead, *to place such troops under the temporary direction of the Mayor of any city, or of the President of the Board of Supervisors of the Cities and Counties of Sacramento and San Francisco, or the person acting in that capacity,* of the Sheriff of any county, or of any Marshal of the United States; and if, in the opinion of such civil officer, it shall become necessary that the troops so called out shall fire or charge upon any mob or body of persons assembled to break or resist the laws, such civil officer shall give a written order to that effect to the superior officer present in command of such troops, who will at once proceed to carry out the order, and shall direct the firing and attack, to

cease only when such mob or unlawful assembly shall have been dispersed, or when ordered to do so by the proper civil authority. No officer who has been called out to sustain the civil authorities shall under any pretence, or in compliance with any order, fire blank cartridges upon any mob or unlawful assemblage, under penalty of being cashiered by sentence of a court marshal, provided that nothing in this section shall be construed as prohibiting any such troops from firing or charging upon such mob or assembly, without the orders of such civil officers, in case they shall first be attacked or fired upon, or forcibly resisted in discharge of their duty."

These statutes were passed for the government of all public officers in this State. They related to the duties of the Mayor of San Francisco; to his obligation and oath of office, under the Constitution and laws of the United States, to preserve, maintain and enforce public peace and tranquillity, under all circumstances and however situated. He is a MAGISTRATE charged with compelling the observance of the law relating to the public peace, and is, in the highest sense, the supreme peace officer of the city and county. It is his duty to observe the Constitution and the laws of the State, and these various charges are presented as violations of these laws.

What is the first? You must take the charge as it is presented in the complaint. Respondent's counsel this morning said it would not do for us to shelter ourselves behind its verbiage or undertake to evade the terms of the statute by artfully adding to each recital of fact or act that it was done in his official capacity. But it seems to me that so far as the pleading

is concerned, the fact must be assumed as we have alleged it, viz.: that the Mayor of this city, for the purpose and with the intent of exciting riot, of making public disturbance, advised persons subject more directly to his influence than men of better education and more learning would have been, to the commission, at a time and place thereafter to be appointed by him, of outbreaks, of injuries to property and injuries to persons. Assume that it was his official duty as the conservator of the public peace at all times to maintain and preserve it by his official action—what sort of discharge of that official duty is the conduct laid at the door of the respondent by these proceedings? And I submit that I am unable to appreciate, in such a case, the distinction drawn by my learned friend, Mr. Baggett, when he said that there was a wide distinction between the acts of the respondent as Mayor of the city and his acts as an individual.

Assuming that the serious charges against him are true, and the fact is that the Mayor of the city and county of San Francisco, sworn to support the Constitution and the laws of this State; who is made by its statutes the pre-eminent peace officer of this community, to whom, on occasions of outbreak and disturbance the people have a right to look, and must look for the enforcement of the law; to whom, when property is about to be attacked and human life threatened, the citizen must turn as his bulwark and refuge; in whose hands is placed the solemn duty of calling on the armed force of the State to fire on his fellow citizens; who is directed by law to disperse unlawful

assemblies; whose duty it is, by warning and example, to teach lessons of peace and subordination to law; whose official business it is to pour oil on troubled waters, and on commercial and social dissension, has gone out in his civic robes to men full of discontent, all the more serious if the complaints in which they indulge, are well founded; if a wrongful system of government maintained by corruption, is driving them and their children to starvation, and worse social disaster; discontent all the more portentous of evil if the charges made against the system of servile labor existing in the State of California, is in fact, driving men to poverty, their boys to States Prison, and their girls to the street; all the more ominous if these men to whom he presents himself have been long without work, and stand upon the streets waiting for labor which they cannot find; whose habitations, vacant of the comforts and decencies of life, are crowded with skeletons of despair, while a sleek and well-fed pagan race passes, happy and contented, from industries in which they can take no part or share; men who see boys growing up about them who will never learn an honest trade until they shall have violated the law and gone to the States Prison; and as the Mayor of the city, used the language contained in this bill, for the purpose of inciting them to riot and to the destruction of property; advising the withholding of acts of violence, until he shall be able to go to the head of the column, and, like Navarre with his white plume, be in the thickest of the carnage,—the leader of the crusade against the

lives and the property of the people whom he has sworn to defend,—shall any man be heard to say that such acts and language were done and uttered by the respondent in his personal capacity, and for which, as Mayor of the City and County of San Francisco, he should not be held responsible? The complaint alleges:

“That, for more than one year last past, there has existed in the City and County of San Francisco a class of persons who have agitated political subjects in an unlawful and turbulent manner. That since, and during the time the said Isaac S. Kalloch has been Mayor of the City and County of San Francisco, as aforesaid, and acting as such, large bodies of men have been assembled and got together, and have been addressed by persons using blasphemous and incendiary language, and language calculated to provoke a disturbance of the public peace. That these persons have been publicly exhorted and advised by the said Isaac S. Kalloch, then and there being Mayor of the City and County of San Francisco, to form processions and parade the streets of the city. That, in accordance with the advice and assured by the moral support of said Isaac S. Kalloch, Mayor of the City and County of San Francisco, processions and parades of persons turbulent in conduct and violent in language, have been had, whereby trade has been stagnated, industries checked, public peace disturbed, the well-being of society and the stability of government endangered, property has been depreciated in value and improvements, public and private, checked and prevented, thereby causing great financial loss and misfortune, and preventing large numbers of the respectable working classes and mechanics in the City and County of San Francisco from obtaining a livelihood and support for themselves and their families.”

I ask, if the conclusion of this case should show a state of facts such as is alleged, this Court could say that the Mayor of the City and County of San Francisco had not violated his official duty and the laws passed for his government and control? That in counselling, aiding and abetting the assembling and marching of turbulent mobs through the streets of the City and County of San Francisco, threatening property, menacing life, and committing acts calculated to provoke a breach of the peace, he had not violated his oath of office, his duty to the constitution of the State of California, his duty to the statutes that were passed for his government and control, as the Mayor of the City and County of San Francisco, and that the statute I have read could not cover such a case? With such power in his hands as the chief executive officer of this city, can he go among the turbulent, the lawless, the vicious, or among men who, whether lawless and vicious or not, were smarting under a sense of wrongs that they felt were driving them from the right to live, and incite them to the commission of acts of violence, which destroyed the value of property, and still hold his office and leave the people to the action of the Grand Jury and the slow process of the courts, when such a statute as that of 1874 is in the books?

The complaint also alleges :

"That on divers occasions and in divers places, the said Isaac S. Kalloch, then and there being Mayor of the City and County of San Francisco, has endeavored to encourage and incite certain

persons in the City and County of San Francisco, to keep and maintain themselves in such a manner as to be able to commit an outbreak against the law whenever he should so advise."

Now for the purpose of this argument, your Honors must take it for granted, that at divers times and places, the Mayor of this city, as Mayor of the city, and with the force and the power and the influence that his high official rank gave him, advised these people to keep and maintain themselves in such a manner as to be able to commit an outbreak against the laws whenever he should so advise. The complaint alleges:

"That the said Isaac S. Kalloch, while Mayor of the City and County of San Francisco, as aforesaid, has purposely and knowingly, and falsely accused various branches of the City Government of dereliction of duty and of corruption in office, for the purpose of weakening their influence, and destroying their efficiency, so that he might strengthen his own power for the accomplishment of his own unlawful ends, and the securing of his private purposes. That he has exerted himself continuously to engender a wicked and brutal feeling among the poor against the rich, and has incited the former to lawlessness, to mob violence against individuals, and to insurrection against the laws and government of the State of California and of the United States.

"That, under the pretence of counselling certain persons in the City and County of San Francisco against mob violence, and while pretending to urge respect for and obedience to the law, he has purposely and treacherously advised them to be and maintain themselves in readiness for bloodshed and violence, and overthrow of the lawful authorities; and especially that on or about the

15th day of February, 1880, the said Isaac S. Kalloch, then being Mayor of the City and County of San Francisco, and acting as such, did utter and deliver a speech to certain persons assembled at or near the New City Hall, of the City and County of San Francisco, in the following language:

“ ‘ The fact is I am really powerless to help you much. For some reason or other the Mayor has been shorn of all power, and in reality, has but slight influence in the government of the city. The workingmen elected a few candidates to conspicuous positions, but those occupying those positions have little patronage or influence. If we had elected our whole ticket, I have no hesitation in saying that before this, all worthy unemployed men would have been furnished with work. But what shall the unemployed men do now? The poor-houses are full. The hospitals are overcrowded. There is no room in the penitentiary. Where can they go? The Supervisors can find them employment if they will; they can set them to work sweeping our dirty streets, and filling up the filthy sloughs, including Lake Merced, if they will. This principle of finding work for the unemployed masses was acted upon by the two Napoleons, to their advantage and the happiness of the people, but what has been recognized and acted upon by the despots, our millionaires fail to understand. I am in favor of setting men to work and soliciting contributions from the wealthy to pay them, until the Legislature can make an appropriation therefor. I only throw out these suggestions for the benefit of our wealthy men, who would do well to heed them, if they do not want to fare worse.’ ”

Bear in mind what this bill says about this class of men to whom he was addressing himself as the Mayor of the city.

"' In the meanwhile, get up mass meetings and processions, and make your wants known, so that those in power can have no excuse for not understanding the true condition of things. The Street Department is able to furnish work for all who need it without a single cent of additional expense to the city. I think the time has now come for action. I have counselled you for five years to be obedient to the law and abide your time. You have done so. The question now is, not whether you will conform to the Constitution, but whether the great corporations will keep the law. If they can afford to transgress the law, what right have they to complain if you do so.'"

Never, since the sun rose on civilization, was such language used by the Chief Magistrate of a great commercial city, to a suffering, turbulent, organized body of men ready to be let loose, and in their wrath, to attack the men and the properties pointed out by this address!

"' If they can afford to transgress the law, what right have they to complain if you do so. I believe the Chinese are a nuisance, and that the bill introduced by Senator Johnson, compelling the corporations to discharge the Chinese, will become a law. I am going to Saramento to-morrow to work for its passage. Now don't you go to work and burn down a solitary Chinese wash house, or kick a poor lone Chinaman, but restrain yourselves and act like sensible men until such time as I again report to you. If these corporations continue to disobey the law, I will tell you what to do. I am doing all I can in your behalf, and wherein I have failed, it is because of the crippling of my body and energies by the bullet of the assassin. In the meantime, do not wait for employment, but go to the Supervisors and demand work

of them. Commit no overt act or do no illegal thing until you hear from me again.'"

When the "Chief Magistrate of the third commercial city in the United States" shall stand before the bar of Justice, whose high behest it is to enforce the law, to see that justice is done to all men alike, before whose presence the rich and the poor stand alike, and is proved thus to have delivered himself, and without respect for courts and officers of the law and the machinery of the Government which he was sworn to protect and defend, what shall be said in his behalf?

Can he use this language to men not accustomed, like himself, to handle words and distinguish between the hoarse cry of the demagogue and the counsel of the executive head of this metropolis, whose direct natures see no difference between a word and a deed, who are ready to act when they have their leader, and that leader the Mayor of the City and County of San Francisco,—can he tell them, and go unwhipped of justice, to "commit no overt act until you hear from me again," because he spoke it as a citizen and not as Mayor? Let it never be judicially declared that this was not conduct in willful violation of official duty if exhibited, as this complaint alleges it was, to such a class of persons, by the "Chief Executive Officer of the third commercial city in the United States." If it is a willful violation of that official duty which imposes on him the obligation of putting an end to turbulent assemblies, of going to the spot where they are assembled, or, in the prudent language of the Statute, "as near to them as possible," and of commanding them to cease

from turbulence under penalty of the law, it will be for your Honors, perhaps, ultimately to determine whether this shocking language was, in its intent and meaning, an official invitation to violence and disregard of law. Let us imagine that the Mayor of the city was called upon to address his fellow citizens who were suffering great hardship: would you not suppose that when, as the Mayor of the city, he went to talk to them about their wrongs, as well he might do, that he would call their attention to the fact that there were Courts where wrongs would be redressed; laws to which they could appeal; and that the golden garments of the rich fall into dust and rags, when arrayed against the panoply of law? Would you not say it was his duty, his official duty, to teach them lessons of subordination to, and awaken in them that wholesome respect and reverence for, principles without which free institutions can never be maintained?

This complaint goes on to allege:

"That on the day herein aforesaid, and at the place aforesaid, the said Isaac S. Kalloch, then and there being Mayor of the City and County of San Francisco, for the purpose and with the intent of inciting his hearers to mob violence, and to forcible and unlawful accomplishment of their wishes and purposes, in respect to the Chinese resident in the City and County of San Francisco and in the State of California, did utter and use the following language, which your complainant believes and alleges to be expressive of a determination to resort to mob violence against individuals, and resistance to the laws of the State of California and of the United

States,"—and it goes on and quotes: "And I shall not cease to call for justice, until I get it. And not until a time comes, which I do not anticipate, when the courts of my country refuse me their protection, will it be for me to remind them that there is room on the sand lots for a gallows as high as Haman's."

Let us recollect, in this connection, that the gallows which Haman erected for another was decorated by his own dangling corpse.

"The Chinese must go. Peaceably if we can." This is the language of the Mayor, not of an unlettered man; not of a man of the people, who, with a sense of their wrongs, was struggling in his rude way to express what he thought and felt, but of the Mayor of the city, the man selected by the majority of our citizens, as the exponent of the law; not to make law, but to see it executed.

"The Chinese must go. Peaceably if we can, forcibly if we must. A revolutionary measure is a last resort. Every other method must first be tried, every other means must first be exhausted. But when this has been done, and done in vain, and the people are all united, and are all aroused in a holy cause, 'Like lions out of slumber, in innumerable number,' where is the wrong or wrong-doer that can stand before them? Such a people in such a spirit and in such a cause, I should be proud to lead. (Applause.) You will find out some time, whether anybody else is fooling or not; but I mean business when I say the Chinese must go."

Are not such language and such incitations and exhortations a violation of the official duty which he owes to the peace system of this city and county, with its multitude of inhabitants, its

vast property, its prominent position, commercially and socially? Is it conduct which, as long as he is under the sanction of his oath of office, he has the right, under the cloak of citizenship, to exhibit?

“And this complainant further alleges, that at the time of the election and qualification of said Isaac S. Kalloch, Mayor, as aforesaid, of the City and County of San Francisco, and at the time of the filing of his bond aforesaid, and at the time of his entering upon the duties of his office as Mayor, as aforesaid, and while he was acting as such Mayor, there were, and ever since have been and now are certain statutes of the State of California under which, the said Isaac S. Kalloch was elected to his said office of Mayor of said City and County of San Francisco, and other statutes of this State prescribing and defining his duties and powers and passed for his government and control. That said Isaac S. Kalloch, so being Mayor, as aforesaid, of said city and county, and while acting as such Mayor, has been guilty of willful violations of the provisions of the statutes of this State which were in existence at the time of his election, qualification and induction into office, and ever since, and were passed for the government and control of the said Isaac S. Kalloch in executing the duties and powers of his office. That said Isaac S. Kalloch has willfully and knowingly violated the provisions of the said statutes and each of them, in this, that he has knowingly, and willfully and corruptly, while being and acting as Mayor, as aforesaid, asked and received emoluments, gratuities, rewards, and the promise thereof for the obtaining and furnishing employment in certain of the public offices in the City and County of San Francisco.”

If this be true, here is a plain and direct violation of his official duty. It would be sufficient to cause his removal, for it is in the teeth of the statutes of this State, to which I have called your Honors' attention.

*Mr. Highton:* You do not wish to be understood by the Court as saying that the Board of Election Commissioners, as such, have the power of appointing any of the officers in the Registrar's office? As I understand the law, the appointments have to be made by the Registrar himself, and are not made by the Board, if I am not mistaken.

*General Barnes:* It is not material whether you are or not. If you want me to state the evidence I will do so, but I do not think it advisable now.

*The Court:* How broad is the allegation? Is it to a pointed gratuity?

*Mr. Highton:* I should like to have the allegation read.

*General Barnes: Reads,* "The obtaining and furnishing employment in certain of the public offices in the City and County of San Francisco of divers persons, and retaining and causing to be retained said persons in office, to-wit: in the office of the Sheriff of the City and County of San Francisco, J. W. Clough, John Doe Cavanaugh, John Doe Higgins, John Doe Powers, John Doe Hatch, whose real names are unknown to this complainant, and other persons whose names are to complainant unknown. In the office of the Registrar of Elections of the City and County of San Francisco, John Doe Tintus, John Doe Jacoby, John Doe Falk, John Doe Hughey, and John Doe

Backus, whose real names are unknown to complainant; and that said persons and each of them have, as complainant is informed and believes, heretofore, and upon the request of said Isaac S. Kalloch, paid and delivered to him emoluments, gratuities and reward for obtaining offices for them and causing them to be retained in the offices by them respectively filled and each of them, and said Kalloch has received and appropriated to his own use some proportion of the moneys received by said persons as and for their salaries or compensation to them allowed by law, or by resolution of the Board or department of the said government authorized to create such offices and affix salaries thereto, and has thereby made to himself, by virtue of his office of Mayor, unlawful, improper and extortionate gains and profits."

*Judge Ferral:* Will you be kind enough to read the provision of the statute as regards the appointments?

*Mr. Highton:* Can you say that the appointing power is in the Election Commissioners?

*Judge Ferral:* I wish to see what the language is, whether it is, who shall appoint, or who shall procure appointments.

*General Barnes:* First I read Section 13,074 of Hittell's Compilation, which is Section 74 of the Penal Code, Title 5, relating to crimes by and against the executive power of the State:

"Every public officer who, for any gratuity or reward, appoints another person to a public office or permits another person to exercise or discharge any of the duties of his office, is punishable by a fine not exceeding five thousand dollars, and, in addition thereto, forfeits his office and is forever disqualified from holding any office in this State."

I would like to interrupt the course of my argument for a moment to remark that counsel, in discussing this question, called attention to the Penal Code, which provided for the punishment of what was in that Act termed misdemeanor in office. But the Act of 1874 expressly declares that whoever can be dealt with by that Act may be dealt with by this, and that it may be availed of in addition to the cumbersome process provided by the provisions of the Penal Code; and that it was intended so to be, is evident from the fact that the Act of 1874 was passed after all these other provisions, to which counsel called attention, had been enacted by the Legislature. In the same connection, I call your Honors' attention to the Section found in a subdivision of Hittell's Compilation, numbered 13,651.

"Section 1. Every person who employs laborers upon the public works, and takes, keeps, or receives any part or portion of the wages due to such laborers to the State or Municipal Corporation for which such work is done, is guilty of a felony."

Why then, if it be true, as alleged in this complaint, that the Mayor of the City and County of San Francisco received corrupt gratuities or rewards for appointing any person to a public office, was he not guilty of a violation of his duty? Did he not willfully violate one of the provisions of a statute in force when he was elected?

It is suggested that the act of 1874 related merely to a failure to discharge some statutory

duty, an offense committed, as the counsel suggests, by omitting to sign some draft or warrant, or refusing to approve a bond. He may not only be indicted and punished criminally for some omissions of duty, but, as a cumulative remedy, and in case of violation of statutes passed for his government and control, an appeal may be had to the civil courts to turn him out of office, as speedily as may be necessary, without reference to the question of criminal responsibility; and that is what was meant by the Statute of 1874; otherwise, why was it passed? The law does no vain thing. Your Honors have doubtless observed how, frequently, in the statutes relating to official duty, the power to remove a public officer for a failure to discharge it, or for any willful or corrupt act in office, is granted. He may be removed under half a dozen sections by which penalties are imposed for a failure to perform specified official acts. If he neglects to perform such an act as the approval of a bond, he shall pay a fine; and the Court may remove him from office. He may also be presented by the Grand Jury, or on indictment found, be tried, convicted and sentenced to penal servitude, and also deprived of his office. If he is convicted of felony he becomes civilly dead, and is thereafter disqualified to take or hold any office in the gift of the people. And yet, after officers in this State had stood for years under the shadow of such an official gallows as these Penal and other statutes erected by them, the Legislature created still

another—this Act of 1874—and made it as broad and complete as the English language permits. If he violated the law under which he was elected; if he violated any law which was passed while he was in office; if he violated any law passed for his government and control, he may be removed from office. Now, what does this language mean? Does it simply refer to a possible failure to discharge some of the multifarious detail duties, for which authority was found in the series of Acts recited here—which, by the way, did not include the Act relating to the Board of Election Commissioners, of which respondent was *ex officio* a member? It surely did not mean to cover merely the failure or omission to discharge some official duty, such as approval of a bond, such as attending and presiding over meetings of the Board of Supervisors, meetings of the Water Commissioners, or of the City Hall Commissioners, or any other similar duty; but it means that when the law says he shall not accept a gratuity for putting a man in office, and he corruptly does so; if it says that he shall not make a guilty gain or unlawful profit to himself out of his office and its patronage, and he fails to keep and observe these commandments, he has violated willfully a law passed for his government and control. And as if that was not enough the statute goes on to say, “or is guilty of any other willful violation of duty.” I suppose there are a great many acts not directly controlled by statute which, if committed, might render him amenable to the law of

1874. But it is enough for the present argument to say that this general demurrer to the whole complaint may not be sustained, because it appears that he did willfully disobey statutes of the State passed for his government and control, and was guilty of a willful violation of official duty, to wit: in corruptly appointing men to office for hire and reward, and in using his office of Mayor to make a profit to himself by selling offices under his control. It does not make any difference whether they were in the Sheriff's office or the Registrar's office, or about the department of the porter in the City Hall. The gist is, that the "Chief Executive officer of the third commercial city of the United States" shall be pure in his great office, and that he shall not make barter and sale of its patronage. He may reward his friends. He should, and I hope he has. Offices are gifts which the successful competitor has to shower on those who have been his faithful henchmen and marched under his banner. I believe in the principle that to the victor belongs the spoils. But there are certain species of spoils which the victor may not appropriate. He may appoint his friend to an office, but he may not sell it to him. He may appoint him to an office which he himself has assisted in creating for the purpose, perhaps. He may affix a salary to that office, and vote on the proposition to raise a salary; but when all is done, it becomes the sole and separate property of the happy individual who is inducted into it, and so remains, and the

Mayor who has placed him there has no right to keep, retain, withhold, accept, or receive one single dollar of that public money which the law has awarded to the person who renders the service. If your Honors examine these statutes, I think you will see that the whole scope and object of them was to govern and control the natural cupidity of men in power, so that they shall not make a trade of public offices, that they shall receive the gains, salary, reward and emoluments belonging to them by law, and nothing else. And when the respondent went beyond that limit he violated, counsel says, only the mere trifling expectations of some code of morals, some mere personal ethics, some mere matter of individual propriety. But I respectfully suggest that when a public officer commits such acts as these in the State of California, though he may accomplish them a hundred times and go unwhipped of justice, he may finally run squarely into the jaws of the penitentiary. If he is caught at some of them, at least, he shall be deemed guilty of a felony. When the law says a public officer shall do a thing, and he fails to do it, of course, say my friends, he is guilty of a willful violation of duty. If, for instance, the law requires that on a certain day he shall perform a certain official act, and he fails to do it on that day, he is guilty of a willful violation of official duty, and may be removed from his office; but if the law says he shall *not* do a thing under penalty of removal, and he does it, it is no willful violation of official duty! It is a

mere impropriety, a mere moral obliquity, a mere divergence from that straight line of rectitude which the law of morals expects him to pursue. I say it is true; for instance, that when the law declares a public officer shall not accept a free pass, and he does it, he is just as much guilty of a willful violation of official duty as if it had commanded him to do some act and he had not done it. In other words, the rule of conduct extends in both directions. It covers the sins of omission and the sins of commission as well.

I submit, assuming for the purpose of this argument, that the Mayor of the City has been shown to have made a trade in offices under his control, has sold them for money, has inducted men into office for money, and has kept back and shared the compensation of those in office, as part of the plunder of his official station, then he has violated the statutes passed for his government and control. The suggestion of his counsel that all these acts constitute no official offense, or if they do, that he should be proceeded against by indictment, that his official crimes should be dealt with in some of the various modes suggested by the learned gentleman, as by proceedings by the Attorney General; by invoking penal statutes passed for the punishment, as criminals, of those public officers who bring themselves within the purview of criminal statutes, is all beside the question. These penal statutes existed long before the passage of the Act of 1874, and the reason of its passage as a cumulative remedy must be apparent.

Justice was seen to halt, stumble, and fall prostrate at the doors of Grand Jury rooms. Attorneys-General were not always swift to pursue offenders of their own political faith. Something more was needed, and the statute of 1874 supplied the omission.

We have heard much of the natural right of the citizen officer to be proceeded against "according to the ancient forms of law," and the Grand Jury has been lauded in set phrase as the great bulwark of American liberty. I once indulged in that sentiment myself, but in the Constitutional Convention of this State I learned that the Grand Jury was an effete and useless institution; that it was no longer the bulwark of freemen, and defender of individual rights; and so it came to be that, under the New Constitution, all offences must be proceeded against on information filed by the District Attorney; provided that once in each year, the District Attorney may assemble the bulwark of American liberty; but for all remaining time, American liberty must stagger along as best it may, without the Grand Jury.

Now, any offense, from that of the starving tramp, who in the grey light of early morning takes an illegal drink out of an exposed milk-can, or, to feed a hungry child, appropriates a loaf of bread, the property of another, may be proceeded against by information, on equal terms with the "Chief executive officer of the third commercial city in the United States," who has incited reckless men to mob violence, who has sold offices,

and who has traded in everything that can be made the subject of guilty barter ; and who has violated both Constitution and statute by begging for and using free passes on every railroad he could reach. The law makes no distinction between them. No natural right is overthrown by this statute. There are no natural rights in question ; and it is a fallacy, it seems to me, to indulge in such a line of observation as has been made here upon the arbitrary character of the statute. It simply (and that was the very purpose and object of it) removes from the turmoil and influences of social and political life, the cases of public officers. It is not difficult to imagine instances where, if there were no verdict possible but the judgment of a jury, grand or petit, a public officer innocent of any offense, might, by an indictment of a Grand Jury arrayed against him for other than justifiable causes, be dragged to trial in a time of great popular excitement, and unjustly deprived of his office. It would be more apt to work injuriously to the good citizen in this way than any other. The American people, and more particularly this people, are subject to great political excitements. Popular sentiment is ever swinging, like a great pendulum, from one side to the other. It has no equilibrium, but is always moving--sometimes to the right, and oftener to the wrong. It is lamentable to observe how public opinion will exalt or degrade men, without the slightest regard to those high considerations of virtue and vice, sin and

holiness—*fas et nefas*—those great tests which should control human estimates of the acts of men, and of human character. The only power able to arrest this ever swinging weight, and still its uncertain oscillations, is the judicial hand which holds the plumb of the eternal and unchanging spirit of Law. There rests that judgment which, just in proportion as it maintains its equipoise of even justice, lifts itself—and with reverence I say it—to the majesty and dignity of the eternal throne of God !

Why, if your Honors please, what need a man, however assailed by the unprincipled enmities born of political life—however beset on every side by the dogs of partisan hate, yet conscious of right and virtuous official life—desire more than an intelligent, a calm, a dignified and just tribunal, that neither is, nor can be made a minister of wrath, nor wheedled nor forced to give expression to the plaudits of undeserved popularity. No personal rights or official prerogative can be injured, or diminished, when the attacked comes to stand before such a tribunal, at a time, and in a case like this, exciting public attention, and drawing such a concourse of friends and enemies as this case has brought together. He need not fear to look with confidence into the face of his judge, however much he might tremble before twelve men filled with the passions and emotions of partisan hate or devotion, which drag them, like the evil spirits of which we read, whithersoever they will. It has been to the bench that men have

ever turned in times of intense political excitement, for justice and the enforcement of law. To say that trial by jury is the best or proper method to dispose of cases of this character, is an utter fallacy in law, as well as in fact.

The Legislature had the power, under the Constitution, to determine the mode and manner in which they should be disposed of. It has vested jurisdiction to hear and determine them in the Court alone. It says to all men: "Stand back! Let the assailed come without fear into the Temple of Justice. Let political hate, personal animosities, the bitter and unseemly strife of partisans, the ulterior and dishonorable purposes of politicians, die at our threshold!" Well may the innocent thank God that human wisdom has devised such a refuge; but well may the shrinking and trembling criminal, well may the official whose breast is burdened with deadly secrets, which, like some muttering convulsion of nature beyond his control, are threatening to upheave and destroy him, cringe as the tremulous limbs bear their polluted burden into the presence of justice!

Let us hear no more of presentments by Grand Juries, or of an appeal to jury trial under the provisions of the Penal Code. The law of 1874 was passed for the purposes I have indicated. It is the shield of the innocent, as it is the sword of the destroyer to the guilty.

Let us come to these ticket transactions. There are some things of which Courts take judicial knowledge. Among them are the condition of

the country and its political history. It has been assumed that one of the great difficulties under which the administration of Republican Government labors in these latter days is the controlling influence of property represented by corporations. The philosophic idea that underlies our form of Government is an equal distribution of wealth and the impossibility of perpetuities. Estates cannot be entailed. The laws of their succession and division have here, as in every free country, engaged the attention of the best and wisest minds; hence constant efforts to prevent the accumulation and transmission of large landed estates, and to check the supposed unhealthy interference of great corporations or associations which aggregate capital, with legislation. It is often asserted, and to a considerable extent believed, that our existence as a Republic is actually threatened by reason of the ability to combine wealth in overshadowing corporations. This is the bottom idea of most legislation on the subject of corporations. I do not assert that corporations do the evil charged to them, but the majority of mankind have come to believe it. And one of the chief mischiefs which legislators have in late years sought to prevent has been the handling by great railway and transportation companies of men in office. It is truly a despicable view to take of one supposed to be fit to occupy high official station, that he can be bribed to do that which is wrong, or hired to do that which is right, by the pitiful gratuity of a free ride. But

your Honors know, as part of the political history of the country, that this subject has been legislated on in many ways; and time and again the law has struck at this system of controlling public officers by means of free passes. I have called your Honors' attention to the statutes on this subject more to exhibit the gradual growth of law, as expressive of public sentiment, than for any other purpose; because, so far as the present proceeding is concerned, we stand not on the declaration of the Legislature in respect to the official duty of every man in office not to accept and not to receive a free pass. Its acceptance by a public officer was a statutory misdemeanor before the new Constitution was adopted. Yet this offense, which is treated so lightly by the counsel, was thought worthy of recognition in the new Constitution of the State of California. The large and respected body of the elect who assembled in that Convention considered it of too great importance to be left to the Legislature of the future. They were apprehensive that the legislator of the future might himself fail to find a statutory verdict against the use of free passes, and perhaps release railroad corporations, himself and other public officers, from any such inhibition. Shall it be said it is a trifling matter when the Constitution of this State, Article XII, Section 19, in dealing with this most important subject of corporations ,finds it necessary to establish the law of free passes as an immutable principle ?

It is curious and interesting to observe how this pillar of the Constitution, now reaching to the political sky, has grown and strengthened as years have gone on, until from being now and then a taunt flung out in political debate, or a plank in a political platform, it came to be legislated on again and again, and more and more strongly inhibited until at last it has taken the form of permanent, irrepealable constitutional law. It has augmented like a formation in the lime-stone caverns of the west, where one may set up a willow wand from floor to roof, so slight that it will not bear the burden of a child's hand, yet day by day there comes from above and from below, stalactite and stalagmite, enveloping it with a garment growing more and more substantial year after year, until at last there stands a pillar white and pure which sustains the very arch of the roof above, and will continue to stand though the woody fibre at its core has decayed and vanished forever. So has this pillar of the Constitution grown, and there it must stand forever!

If your Honors please, is it a trifling thing, this subject, so dealt with by the Constitution? Who shall be heard to say it is an unimportant enactment? How severe the penalty which it prescribes for an act in itself so immaterial as the acceptance of a free pass from a railroad corporation! So far as civil life is concerned it is severer than the old law of England which inflicted the death penalty for petty larceny. If an officer of this State accepts a pass he shall forfeit his office. The provision is as follows:

Section 19. "No railroad, or other transportation company, shall grant free passes, or passes or tickets at a discount, to any person holding any office of honor, trust, or profit, in this State, and the acceptance of any such pass, or ticket, by a member of the Legislature, or any public officer other than a Railroad Commissioner, shall work a forfeiture of his office."

It is the mere acceptance which is punished, and not the use. The public officer need not travel a single furlong on the steel belt that binds the country together. He may even accept it, and then repent, and return the pass to its donors: but the word of fate has gone forth for him, and for him there is no place of repentance from the hour in which he accepts it. In other words, the Constitution-makers intended to close the door before it was opened. They took out the door. They walled it up. From the Governor to the lowest citizen of the State of California, who occupies a public station to which he is elected or appointed,—for the discharge of the duties of which there is a pecuniary return, and for which there is a limitation of time, and a successor,—if such an one accepts a pass, he forfeits his office. The penalty is the same as if he had committed a felony, for the statute declares that if any public officer in this state shall be convicted of any crime amounting to felony, he shall thereby forfeit his office. There is hardly any crime in our catalogue of more than decalogic offences, provided against by the Penal Code, of which he can be guilty, and not receive a punishment less severe. He forfeits his office.

The Constitution does not say in so many words that he is guilty of a willful violation of official duty if he accepts the pass, but I appeal to your Honors, if that constitutional provision is not a plain and positive inhibition against the acceptance, or use of free passes by all public officers, the disregard of which prohibitory command is a willful violation of official duty? The Attorney-General, it is true, might proceed. Perhaps they might be indicted. They may also be pursued under the act of 1874.

The complaint sufficiently alleges that the Respondent solicited and received three hundred tickets without paying any consideration therefor, from the Mission Street, or City Railroad Company, and an annual pass from the Market Street Railway Company, and that he even went into the very jaws of the ogre of California civilization, to wit: the office of the Southern Pacific Railroad Company, and there solicited, in defiance of the Constitution of the State of California, a free pass from here to Los Angeles and back, with stop-over privileges. If he did go to the Superintendent of the Mission Street Railway Corporation, and ask him if there was not some way in which he, the Mayor of the City and County of San Francisco, could ride perpetually free on its cars,—representing that he lived on the line of the road—was a man of high station—was surrounded by large numbers of his friends and fellow-citizens, who would cease to patronize the road if their leader was no longer located in its vicinity, and that he required assistance to the extent of \$30 per month in tickets, to enable him to

travel free on that street railroad, and finally compromised for, and accepted, three hundred free tickets a month, it is enough to say that such conduct was a direct violation of the law of the State, and of the Constitution adopted for his government and control. The Constitution made the law, and established the penalty for him; and so far as this particular offence is concerned, and the penalty provided for it, the Constitution is self-operating. Consider, if you please, the next charge, that he did apply to, and solicit and receive from The Southern Pacific Railroad Corporation, engaged in the business of transporting passengers and freight between San Francisco and Los Angeles, a free pass, under the circumstances stated, was not that equally a violation of his official duty?

It has been suggested that all these acts were done by Respondent as an individual, and that they have nothing to do with his office of Mayor.

I suppose it was intended by the suggestion that unless this free pass from the Market Street Railway Company, and the pass from the Southern Pacific Railroad Company, and the 300 free tickets from the City Railroad Company, were obtained by respondent, as Mayor, by virtue of an Ordinance of the Board of Supervisors, or an Act of the Legislature, requiring him to demand and receive the passes as Mayor of the City and County of San Francisco, for use in visiting Hospitals, or the Alms House, or the Industrial School, or the House of Correction, or on some public business, the solicitation and the taking were not unlawful, and constituted no offense against the Constitution and Laws of the State.

What utter nonsense! If it be a public offence in a public officer to accept such passes, what sort of an excuse is it to say, "True I did those acts forbidden by law and the Constitution, under penalty of being deprived of my office, but I did them in my individual capacity. I laid aside my civic robe when I went to the office of the Market and Mission Street Railroad Companies, and kicked off my official sandals when I stepped into the presence of the officers of the Southern Pacific Railroad, and prostrated myself at their feet, and solicited a free pass from San Francisco to Los Angeles and back. All was done by me individually and not as Mayor." With equal force might he say, had he been indicted, tried, and convicted of burglary, and I had come into Court with the record of his conviction, and had asked an order declaring that his office was forfeited according to the terms of the statute of this State,—that he had committed the burglary in his individual capacity, and not as Mayor; and with equal propriety might the Court assent to that view, and permit him still to act as Mayor of the City of San Francisco; to sign its ordinances from behind the bars of San Quentin, and be brought in charge of a guard to preside over meetings of the Board of Supervisors and numerous Commissions as required by law, to hang up his hat and his hand-cuffs together, and on stated occasions to ornament the gorgeous Mayor's office in the New City Hall! Can this be an answer to the solemn declaration of the Constitution? Counsel say, the Attorney-General is alone authorized to file information for the purpose of determining the title to the office by

the use of some one of the various writs available at common law for that purpose, and so ascertain whether respondent has forfeited it, or is holding it pursuant to law. Well, I suppose it would be possible for the Attorney-General to promote proper process for the determination of the question, but we are not driven to that resort. The statute of the State steps in and places the matter with this Court on the petition and application of any citizen. When the statute was passed, the procedure provided by it took the place of the common law writs. It is no longer necessary to resort to any extraordinary legal remedies. The statutes furnish one, both plain and adequate, declaring what the complaint should be and contain; how it should be served, and how the matter should be proceeded with to final judgment; and the forfeiture, if any, is to be declared by this Court, and in this proceeding.

If your Honors please, if the facts here alleged are true, I repeat that the respondent has willfully violated the statutes of this State passed for his government and control, and has violated the Constitution of the State of California, which, with uplifted hand in the presence of his fellow-citizens he swore to maintain and defend. Nor are the facts trifling, nor to be brushed aside as the personal peccadilloes of an able man. They have been by law taken out of the category of personal acts. The Constitution has proclaimed that no longer shall a public officer place himself under obligations to these great corporations, but that he shall stand free and clear of their influence and control. Former statutes provided that a

private citizen should not accept such a pass, and that the Railroad Company should be punished if it issued one to the private citizen; but for the public officer who shall descend from his station, and go with outstretched hand seeking this particular kind of alms there is provided the penalty of removal from office. The Constitution did not intend, and the law does not intend that such acts shall be treated as trifling and personal transactions. There is no such element in them. They are pure, unadulterated, crystalized violation of constitutional law and official duty that cannot be glossed over, forgotten, or forgiven.

So, I conclude, as I began, by saying that this is a general demurrer to the whole case, and not to any particular part of it. If any one of the allegations here set forth constitute a violation of laws passed for the government and control of "officers in this State," of whom your Honors have already held the Mayor of the City and County of San Francisco to be one, then this general and sweeping demurrer may not, and I hope I do not go too far in saying, will not be sustained.

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Col. Harry I. Thornton, of counsel for respondent, briefly replied and the Court took the case under advisement. On the following day the Hon. James C. Cary, Department Judge, pronounced the following

## DECISION.

*Judge Cary.* This is a proceeding to remove Isaac S. Kalloch, Mayor of the City of San Francisco, from office, under the provisions of an Act of the Legislature of the State of California, entitled "An Act providing for the removal of civil officers for violation of official duties," approved March 30, 1874. The complaint sets forth at large the various acts committed by the respondent, charged as being in violation of his official duties, and in that behalf alleges: First, that he did on divers occasions deliver certain intemperate, inflammatory and scandalous harangues. Second, that he corruptly asked and secured gratuities and rewards for obtaining and furnishing employment to sundry persons in the public offices of the city. Third, that he solicited and accepted free railroad passes.

There is a general demurrer to the complaint, upon the ground that on the face of it it appears that the delinquencies complained of were not committed by respondent in the course of his official duties as Mayor, and are therefore not within the operation of the statute.

The statute referred to provides that any officer of the State may be removed from office in the following cases:

First—If guilty of willful violation of any of the provisions of the statute under which he was elected or appointed.

Second—For a willful violation of any statute prescribing or defining his duties and powers, or passed for his government and control.

Third—if guilty of any other violation of official duty.

We are all of the opinion, that in order to remove an officer for a violation of any of the foregoing provisions of the statute, it must appear, both by allegation and proof, that the act performed by him was an official act, committed either in the corrupt or negligent performance of a duty growing or springing out of the fact that he is an officer in the performance of the duties of his office, or in a willful or corrupt neglect to perform his official duties.

It was never intended that this statute could be utilized to deprive an officer of his office because he is a ward politician or a corrupt and dangerous man, or one given to making indiscreet or inflammatory speeches. Laws of a different character, providing for a widely different mode of procedure, are in force to meet such cases by the punishment and removal of the offender from office. It was clear to us that the acts charged in the complaint as a ground for the removal of the respondent from his office were not performed by him under color of or by virtue of his position as Mayor of the City and County of San Francisco. It is not our purpose, however, at this time to state at large our reasons for this conclusion. To

do so opens up a field of debate altogether too extensive. The questions arising in this case up to this point have been elaborately presented and have been discussed with distinguished ability on both sides, rendering it quite unnecessary for the Court to do more than announce its decision, and that is:

First—That the scope and purpose of the Act of 1873–4 was to provide a summary remedy for the removal of public officers guilty of non-feasance or mis-feasance in office in the course of their official duties, and not otherwise.

Second—That the acts charged against the respondent were not committed by him in the course of or in the line of his official duties as Mayor, but as a private citizen, and we therefore hold that he is not within the meaning or operation of the statute, or of the mischief against which it so carefully provides.

It results that the demurrer must be sustained and the proceedings dismissed, and it is so ordered.

CARY, Judge.

#### DISSENTING OPINION OF JUDGE LATIMER.

*Judge Latimer.* I agree with my associates upon all points except that which will now be noticed.

The Constitution provides (Article XII, Section 19): “No railroad or other transportation com-

pany shall grant free passes, or passes or tickets at a discount to any person holding any office of honor, trust, or profit in this State; and the acceptance of any such pass or ticket, by a member of the Legislature or any public officer other than Railroad Commissioners, shall work a forfeiture of his office."

This section of the Constitution is inhibitory, and the inhibition extends both to the granting by the company and the acceptance by the public officer, named in the section of free passes, &c., and the penalty for the acceptance of such passes, &c., by the officer, is forfeiture of his office.

This section is self-operative, and needs no legislative action to carry it into effect, except as to the manner of declaring the office of the offending officer forfeited.

That the office of the Mayor of the City and County of San Francisco is a public office, and the incumbent thereof a public officer within the meaning of the section of the Constitution named, must be admitted.

The complaint in this case alleges among other things that the defendant did, while holding the office of Mayor of the City and County of San Francisco, and while acting as such officer, accept and use free passes and tickets from three different railroad companies, viz: the Market Street Railroad Company, the City Railroad Company, and the Southern Pacific Railroad Company.

For the purposes of the general demurrer which has been interposed by the defendant to the complaint, these allegations must be taken as true, and the facts stated in them being true, they work a forfeiture of the office of Mayor by the defendant, as is expressly provided by the section of the Constitution stated.

The only question therefore to determine in this connection is, can the forfeiture be declared, or in other words, can the defendant "be deprived of his office" in this proceeding?

This proceeding is had under the provisions of the Act of the Legislature of this State, approved March 30th, 1874. (Statutes 1873-4, p. 911.)

It is entitled "An Act providing for the removal of civil officers for a violation of official duties."

It is provided in the first section, among other things, that "Any officer in the State who shall be guilty of a willful violation of any of the provisions of \* \* any statute or statutes of this State, \* \* passed for their government or control, \* \* \* shall be deprived of his office \* \* \* in accordance with the provisions of section two of this act."

The proceedings in this case are in accordance with the provisions of section two of that Act—at least no objection has been made that they are not so in accordance.

It must be conceded that the acceptance of the

passes, &c., was in violation of Section 19, Article XII, of the Constitution, and if that section can be considered as a statute of this State, passed for the government and control of all officers in the State, then the general demurrer should be overruled.

That the Constitution is a statute of the State within the meaning of the Act of the Legislature of March 30th, 1874, I have no doubt, and that the section named was passed for the government and control of all public officers in the State, including the Mayor of the City and County of San Francisco, seems equally certain.

It is contended however, on behalf of the defendant, that the words "government" and "control," as used in the Act of the Legislature under which these proceedings are had, mean government and control in the matter of performance of, or omission to perform, official duties, and that official duties are such as are prescribed by law to be performed by the incumbent of that office.

In a general sense, official duties are such duties as pertain to the office held, and they are generally prescribed by laws, which also regulate the mode and manner of the performance of the official acts pertaining to the office.

But the words "for their government and control," as used in the Act referred to, have a broader signification, and this is evident from the Act itself.

It is provided that an officer shall be deprived of his office if he shall be guilty of willfully violating—

1st. "Any of the provisions of the statute under which he or they were or may be hereafter elected or appointed."

2nd. "Any other statute or statutes of this State prescribing or defining their duties and control."

3rd. "Any other statute or statutes of this State \* \* \* passed for their government and control."

To limit the Act to the construction claimed for it by the defendant, would be to hold that nothing whatever is added to it by the third paragraph stated.

This is apparent and need not be elaborated, for it is evident that the 1st and 2nd paragraphs would cover all cases that could arise under the construction of the Act claimed by the defendant.

But under the ordinary rule for the construction of statutes, effect must, if it reasonably can, be given to each and every part.

Giving some effect then to the 3rd paragraph, what is the meaning of the words *government and control*, or *statutes passed for their government and control*?

Suppose the statute says: "The Mayor shall not appoint any one as his clerk or secretary who cannot read and write." Would not this be a

statute for his control in that matter, and if he did make such appointment, would he not violate a statute passed for his government and control within the meaning of the Act of 1874?

Or if it provide that the Mayor shall not profit by any contract, or should not engage in certain employment, would it not be the same.

And in my opinion, this view in no manner conflicts with the decision in *ex parte Herald* (47 Cal.) as that was a different proceeding, had under a different statute, and before the Act of 1874 was passed.

The case then stands thus : The Mayor of the City and County of San Francisco is a public officer. Public officers are inhibited by the Constitution from receiving free passes, &c., under penalty of forfeiture of office.

So far as this case is concerned therefore, the Constitution may be read, and the acceptance of any such pass or ticket by the Mayor of the City and County of San Francisco \* \* shall work a forfeiture of his office.

It being conceded that the Mayor, the defendant here, did accept such free pass, &c., it follows from what has been said that he has violated a statute of this State passed for his government and control, and that the general demurrer ought to be overruled.

Whether and how far the defendant in this case might be prosecuted for *misdemeanor* in office under

Sec. 18, Art. IV, of the Constitution, and the statute enacted in pursuance thereof, I have not had time to consider, nor is that question involved in this case. That the consideration of it would open a wide field, is evident from notable cases that readily occur to the mind.

The simple question here is : Is he amenable under the Act of the Legislature under which this proceeding is brought?

And I am of opinion that the Act referred to in no manner deprives the State of any remedy otherwise provided, but that the intention was simply to provide another, further and additional remedy for the enforcement of official duty. In fact it is expressly declared in the Act itself, that it shall not be construed to repeal or impair the provisions of any other Act concerning officers, but shall be construed to be a cumulative remedy only.

LATIMER, Judge.





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No.

IN THE

# SUPERIOR COURT

OF THE

## STATE OF CALIFORNIA,

In and for the City and County of San Francisco.

J. A. COOLIDGE,

*Plaintiff.*

v/s.

L. S. KALLOCH, MAYOR,

*Defendant.*

## Argument of W. T. Baggett upon Defendant's Demurrer.

W. T. BAGGETT AND

H. E. HIGHTON,

Attorneys for Defendant.

(MAY 27, 1880.)

SAN FRANCISCO.

PACIFIC COAST LAW PRINTING AND PUBLISHING CO.,

511 Montgomery Street.

1880.



IN THE  
SUPREME COURT  
OF THE  
State of California.

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IN THE MATTER OF ISAAC S. KALLOCH, }  
MAYOR OF THE CITY AND COUNTY OF SAN }  
FRANCISCO. }

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Argument in Support of Respond-  
ent's Demurrer.

*May it please the Court:*

From the view I have taken of this proceeding, I have thought it unnecessary to direct attention to, and discuss but a single proposition. There are other important issues raised by the motion and demurrer filed herein by the defendant, but they will, I am confident, be submitted by my associate with his usual thoroughness and ability. From what has been stated by my associate, your Honors are aware of the position I shall attempt to main-

tain. The investigation I have given the subject, I am pleased to say, has forced a deep conviction upon me as to the correctness of the conclusions arrived at. The position taken is briefly this: Under the statute upon which rests this proceeding, no charge can be investigated and sustained that is not an offense committed in the performance or omission of duties pertaining to an office—duties enjoined and imposed by law as acts to be performed by *the officer*, and for which purpose the office was created.

## I.

### THE ACT ON ITS FACE SHOWS THAT IT RELATES TO DUTIES PERTAINING TO THE OFFICE.

The proceeding, as designated by the complaint itself, is a special proceeding under the provisions of an Act of the Legislature of the State of California, entitled "An Act providing for the removal of civil officers for a violation of official duties," approved March 30, 1874. Without reading the Act at length, I desire to call the attention of the Court first to its title: "An Act for the removal of civil officers for a violation of *official* duties;" and next, to the language of the Act prescribing the offense: "Or any other officer who shall be " guilty of a willful violation of any of the pro- " visions of the statute under which he or they " were or may hereafter be elected or appointed,"

etc., " who shall be guilty of any *other* willful violation of *official* duty shall be deprived of his " office;" and next, to section 3 of the Act: "This " Act shall not be construed to repeal or impair " the provisions of any other Act concerning offi- " cers in force at the time of the passage hereof, " but shall be *construed* to be a *cumulative* remedy " for the enforcement of *official* duty, and *not* " *otherwise.*"

The language of the statute is so plain and conclusive that I am at a loss to know why the learned counsel for the complainant should determine to build a case upon it supported by allegations of facts going to establish offenses committed, not within the scope of official duties—duties pertaining to the office of Mayor—but committed as a citizen, if at all.

## II.

### WHY THE ACT IS RESTRICTED TO SUCH DUTIES.

Aside from the language of the Act, there is abundant reason for restricting the investigations thereunder to acts done in the performance of duties pertaining to the office.

In the first place the proceeding is summary, and a trial by jury is prohibited. The reason is apparent, to-wit: the Court being presumptively in full possession and knowledge of all the laws pre-

scribing the duties of public officers, can readily and speedily pass upon the guilt or innocence of the officer if the investigation is confined simply to that of *official* duty. But should the investigation be limitless, running from a consideration of acts scarcely amounting to moral turpitude to the highest and most infamous crimes known to the law, from acts within, and acts without, the prescribed functions of the office, who would doubt the impropriety of such an act? The Legislature never contemplated such an unreasonable thing. If all the acts, *private* as well as public, done within the period of an official term, can be dragged before a court to determine the question whether a man is morally good enough to hold an office to which the people have elected him, he certainly should have the right to demand a jury to pass upon a question involving so much to himself—one in which his reputation as a citizen is at issue; for the officer may be guilty of a willful violation of an official duty, and yet not be guilty of an offense touching in the least his reputation. The word "willful" as used in the statute is to be applied to the intent with which the act is done or omitted, and implies simply a purpose or willingness to commit the act or make the omission, and does not imply an attempt to violate law criminally.

(Sec. 13,007, sub. 1, Penal Code.)

I do not overstate the effect of this proceed-

ing when I charge that the theory upon which it is based permits an investigation into the *intent* of every PRIVATE act of an officer, that there might be found a basis or a cause for removal from office. Where does such a conclusion bring us? To this:

1. That the tenure of office depends upon the *morale* of the citizen.
2. That the *morale* of a citizen, who is an officer, may be inquired into in a proceeding to remove him from office.
3. That there is no limit or restriction to such inquiry. It may extend to the proper government of a household; it may extend to a question of the payment of just debts; it may even extend to a question of cleanliness or decent habits. For these are all duties that should be performed by respectable citizens.

I say this is what we are driven to if we adopt the theory of this complaint. Such is the character of the matters charged in the complaint, so far as the question of "official duties" is concerned, notwithstanding the complainant has artfully appealed to each charge "in his official capacity." This device will not serve him. The Court takes judicial knowledge of the duties enjoined by law; and when the complainant charges an offense, done without and not in the performance of such official duties, the "suggestion" by complainant that it was done officially must be treated as surplusage.

My purpose is not to treat lightly the grave charges made in some portions of this complaint. I have alluded to insignificant matters respecting the conduct of a private citizen to show that they might be inquired into and made the basis of a proceeding for the removal of an officer under this statute, with the same propriety as those alleged in this complaint. I shall even assert that, no matter how infamous the offense charged, unless it was committed in the performance of duties pertaining to the office, it can form no basis for a proceeding under *this* statute. I assert that should an officer be guilty of larceny or gaming he could not be removed from office under this statute, unless the larceny was committed by him in the performance of some official duty.

I must not be understood as saying that an officer may commit such crimes against the dignity of the State, and not be amenable to its laws. The law has made ample provision for the punishment of all such offenses, and set apart a forum and a procedure with a view to such punishment; always paying deep regard to the rights of the offender. But it is not by a proceeding of the nature of the one at bar, and under a statute specially designated one for the enforcement of OFFICIAL duties.

The statute upon its face says it is cumulative; that all other statutes concerning officers remain in full force. So that the machinery of the law is

sufficient to meet such a case as is made by the allegations of the complaint, if sufficient otherwise.

### III.

IF THE STATUTE IS INTENDED TO COVER SUCH OFFENSES AS CHARGED IN THE COMPLAINT, IT IS UNCONSTITUTIONAL.

The constitutional provision under which the statute was passed, and which alone authorizes the enactment of a statute prescribing a procedure for the removal of civil officers otherwise than by impeachment, is in these words: \* \* \* \* “All other civil officers shall be tried for misdemeanor in office in such manner as the Legislature may provide.”

The civil officers referred to are all others than the Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, Surveyor-General, Justices of the Supreme Court, and Judges of the District Court.

The language here used by the Constitution is, “shall be tried for *misdemeanors in office*”—that is, official misdemeanors. If it was not intended to restrict the trial to acts—amounting to misdemeanors—done in the performance of and pertaining to the duties of the office, why

use the words "in office." If it was intended otherwise, these words could and should have been omitted. Giving the provision the construction that must be contended for in order to sustain the constitutionality of the statute, these words are surplusage; for the provision would convey the same meaning without them. It would then read "All other civil officers shall be tried for misdemeanors in such a manner as the Legislature may provide."

We see that the Legislature is restricted in its power to pass laws upon this subject.

1st. The enactment must make provision only for a trial for acts declared by statute to be misdemeanors.

2d. The trial must be for misdemeanors *in office*—misdemeanors committed in the exercise of the duties pertaining to the office.

If the statute under which this proceeding is brought is to be construed to be so far-reaching in its application as to, like a drag net, encompass every crime or offense known to the law, then I contend that it is unconstitutional, as having been passed by the Legislature in the exercise of powers in excess of constitutional authority.

If the statute here under consideration was couched in unmistakable language, containing a positive declaration that *any* violations of duty—that any act in violation of any of the penal

statutes of the State, would be cause for the removal of the officer, it would undoubtedly be unconstitutional. But I do not believe that such was the intention of the Legislature. It desires to keep strictly within the prescribed limits as fixed by the Constitution. All the Acts passed upon the subject show this. They meant to confine the trial of an officer to offenses—amounting to a misdemeanor—committed in the performance of some official act. The provision of the Penal Code already referred to (section 758) provides for an accusation in writing against an officer for “willful or corrupt misconduct in office,” to be presented by the grand jury. This provision was intended to be in furtherance of the constitutional provision referred to. Note the language: “Willful and corrupt misconduct *in office.*” The constitutional provision is “misdemeanor in office.” A corrupt misconduct in office would undoubtedly be a misdemeanor in office. A willful misconduct might not be, unless made so by statute. So there seems to be no excess of power in this case; and the statute seems in unison with our construction of the Constitution—to-wit, that the offense must have been committed in the performance of some official duty.

Section 772 of said Code is a part of a statute passed in 1853, and carried into the Code at its adoption. Its evident object was to provide a *summary* proceeding for the removal of officers

for certain offenses committed in the execution of the duties pertaining to the office—to wit, for charging and collecting illegal fees for services rendered *in the office*, and for a neglect or refusal to perform the official duties pertaining to his office. In 1874 the statute under which the complaint is framed was passed. As already shown, it provides for the removal of civil officers for violation of *official* duties.

It is cumulative, as is stated in the Act itself, and was intended to apply to a special class of officers—to-wit, those holding, controlling, building, or managing any public building; or holding, controlling, managing, or disbursing any of the public funds of the State, city, or county, or any person acting under and by the authority of such officers.

All other things, acts, and matters going to constitute an offense against the laws of the State, and which may be misdemeanors or felonies, must be prosecuted by *indictment* and punished as for misdemeanors or felonies; and in certain cases a conviction works a forfeiture of office, which forfeiture must be declared by an action brought by information of the Attorney-General of the State (13,074 Penal Code) and the officer ousted; as, for instance, “Every public officer “who for any gratuity or reward appoints “another person to a public office \* \* \* “is punishable by a fine not exceeding five

" thousand dollars, and in addition thereto " forfeits his office," etc. Section 13,010 Penal Code provides that the omission to specify or affirm any ground for a forfeiture of office, or of powers already conferred by law for the removal of officers, etc., does not affect such forfeiture or power.

There was sufficient power at common law by the proper proceedings to meet all cases of dereliction of duties by officers.

The leading case of *Rex vs. Richardson*, 1 Burr, 517, 31 Geo. II., establishes the doctrine that all officers of a municipal corporation may be removed in three classes of cases:

1st. For offenses that are *infamous*, and not connected with the exercise of the duties of the office; but such must first be supported by a conviction.

2d. For official misconduct. And,

3d. For mixed acts.

A case, reported in 2 Binn (Pa.), 448, supports this ancient but firmly established doctrine.

So, therefore, we see that most ample provision has been made for the punishment of officers committing offenses against the laws of this State; and it does not become necessary to try such charges as are made by this complaint, under this statute, in order that the respondent shall not go unpunished.

But if I am wrong in my interpretation of the constitutional provision, and it be held to give authority to the Legislature to pass laws for the removal of officers for any act against the peace and dignity of the State, then I urge that the section of the Penal Code (758) providing for the removal of officers by accusation, presented by the grand jury, for willful or corrupt misconduct in office, was intended to apply to all misdemeanors committed while in office; and the statute here under consideration was intended to apply to violation of duties *pertaining* to the *office*. This construction can be given those statutes without the least embarrassment to the machinery of the State constructed for the punishment of persons holding office. In support of the views heretofore expressed, I cite the following cases:

In *The Mayor, etc., vs. Shaw*, 16 Ga. 172, Starnes, J., delivering the opinion of the Court, said:

“ But waiving this, let us look to the more important question—was the Marshal properly removed from office?

“ The amendment to the charter of the city of Macon, passed February 22d, 1850, authorizes the Mayor and City Council to dismiss the Marshal, for malpractice in office or neglect of duty.

“ The charge against the Marshal in this case was gambling in the city of Macon. This was proven, and nothing else appears in the record

" as proof of malpractice in office or neglect of  
" duty. Did this constitute malpractice in office?

" The word *malpractice* cannot be here used in  
" the technical sense of the term. It is not em-  
" ployed in the sense of *mala praxis*. That is to  
" say, it does not signify that unskillful practice  
" in a professional person, whereby some other  
" person is injured. Nor does it mean mere ne-  
" glect of duty; for neglect of duty is, in so many  
" words, specified in the Act and in the same sen-  
" tence. It could only signify some abuse of the  
" duties of the Marshal's office—as extortion,  
" official malversation, or other such improper ex-  
" ercise of the office. Of course, the crime of  
" gambling was none of these things.

" Was it neglect of duty? In one sense, it un-  
" doubtedly was so. In that sense in which it  
" would have been a neglect or violation of any  
" one's duty. It is clearly the duty of every per-  
" son to abstain from gambling, and so, of course,  
" it was the duty of this Marshal. But this is not  
" the sense in which the term was used. It was  
" plainly employed in the sense of neglect of  
" official duty—his duty as Marshal—not as a  
" good citizen. What his official duty was, the  
" ordinances will show. The following are the  
" official duties which, it is supposod, he has vio-  
" lated:

" 1. It is made his duty, by the charter, 'upon  
" notice, in writing, from the Mayor, or any  
" member of the Council, to prosecute all offend-

"ers against the laws of the State, for crimes  
"committed in the city of Macon." And in case  
"of any offense committed in his presence, or  
"within his knowledge, 'it shall be his duty to  
"prosecute, without notice.' Here is a clear and  
"definite duty prescribed, a violation or neglect  
"of which would seem to be a sufficient cause for  
"the removal of this officer, if the Mayor and City  
"Council themselves had not, by their ordinance,  
"otherwise enacted. We find that in the 5th sec-  
"tion of the ordinances, under the head *Marshal*  
"*and Deputy Marshal*, it is declared that it shall be  
"the duty of the Marshal to prosecute all offenders,  
"etc., in the city of Macon. And if he shall 'fail  
"or refuse to do so, when notified so to do, by the  
"Mayor or any member of Council, he shall be  
"removed from his office.' Here the corporation  
"have plainly restricted their right to remove  
"this officer for not prosecuting, to cases where  
"he shall fail or refuse to prosecute, after being  
"notified so to do.

"It is not pretended that the defendant in error  
"failed or refused to prosecute on this occasion,  
"after being notified, nor was this the charge.  
"Indeed, it does not appear, by the record, that  
"he did not prosecute. He could not, therefore,  
"for this cause, have been removed.

"2. Similar observations may be made in rela-  
"tion to the duty of the Marshal, as prescribed  
"by the 3d section of the ordinances under this  
"head.

" 3. The duty of the Marshal, prescribed by the  
" 8th section of the ordinances under the head  
" *Nuisances*, as cited by the learned counsel for  
" the plaintiff in error, requiring that officer to  
" 'arrest all persons offending against the public  
" safety, morality, or decency,' does not apply to  
" cases of gambling, but to cases of nuisance, or  
" *quasi* nuisance. This Marshal did not violate  
" that section therefore.

" 4. Neither does the 7th section, under the  
" head *Marshal and Deputy Marshal*, apply to cases  
" of gambling, but to cases of disorder, drunken-  
" ness, or riot in the streets.

" These are all the duties of the Marshal which  
" have been referred to, as having been violated  
" by the defendant in error. And it must be very  
" plain to every one that the act of gambling,  
" charged and proven against this defendant in  
" error, was not such a neglect of the duties im-  
" posed by these ordinances, as authorized the dis-  
" missal of the Marshal, according to the charter,  
" unless the act of gambling, *in itself*, constituted  
" such neglect of duty. That it did constitute  
" neglect of *official* duty we cannot think. He had  
" no warning to this effect—no notice, that if,  
" while holding the office, he gambled he would  
" be dismissed—he did not take the office with  
" any such understanding; and though the act  
" was highly immoral and criminal, yet it was not  
" a neglect of duty, in the sense in which the  
" Legislature used the terms.

" We can but express regret that we have been  
" compelled, by a sense of our own duty, to take  
" this view of the case before us. It would have  
" given us great pleasure if we could have sus-  
" tained the Mayor and City Council of Macon in  
" the action which they have taken against this  
" defendant in error, who proved himself, in point  
" of moral conduct, so unworthy of the office  
" which he held. We would fain have given them  
" aid in the effort to suppress this abominable  
" vice of gambling in their community. They  
" need such aid, if this record is to be believed.  
" It is a sad report which it makes of the state of  
" morals, as regards this vice, in that flourishing  
" and thriving city. By the record before us, it  
" appears that not far from one hundred and fifty  
" presentments, for this offense, were made by the  
" grand jury, at the time this defendant in error  
" was presented, and that other persons, besides  
" the Marshal, charged with important official  
" duties, and responsible for the good order and  
" morals of the place, were, at the same time, put  
" under accusation, and afterwards punished for  
" this same offense of gambling. And we are  
" sorry, indeed, that we cannot, by our judgment,  
" aid those who, by rebuke and punishment of the  
" defendant in error, have manifested a desire to  
" lessen the frequency of this crime in a commu-  
" nity where it is so prevalent. If we have not  
" done so, it is only because we could not, and  
" yet have regard to those legal principles to which

" every citizen, however immoral his conduct may  
" have been, has the right to look, as safeguards  
" of his person and property."

In *Ex parte Harrold*, 47 Cal. 129, our Supreme Court say:

" The prisoner, who is the County Treasurer of  
" San Joaquin County, was indicted for 'willfully  
" omitting as a public officer to perform a duty  
" enjoined by law upon him.' The offense, as  
" charged in the indictment, is his failure, during  
" a specified period, to reside at the county seat  
" of his county. He is now held in custody by  
" virtue of a bench-warrant issued by the County  
" Court, after having been tried and found guilty  
" as charged in the indictment. The only ques-  
" tion we shall consider is whether the indictment  
" charges the commission of a public of-  
" fense.

" It is provided by the 176th section of the Penal  
" Code, that 'every willful omission to perform  
" any duty enjoined by law upon a public officer  
" or person holding any public trust or employ-  
" ment, where no special provision shall have  
" been made for the punishment of such delin-  
" quency, is punishable as a misdemeanor.' The  
" The Political Code (Sec. 4119). provides that  
" certain county officers, among whom is the  
" County Treasurer, must reside at the county seats  
" of their respective counties.

" It is claimed on the part of the prosecution,

" that it is an official duty of the defendant, as  
" the Treasurer of the county of San Joaquin, to  
" reside at the city of Stockton, the county seat  
" of that county. The duty enjoined by law,  
" within the meaning of Section 176, Penal Code,  
" is an official duty. It is an Act to be performed  
" by the incumbent of the office, in his official  
" capacity. It is not a qualification or condition,  
" which a person must possess in order that he  
" may be eligible to, or continue to hold, an  
" office. Should it be provided by competent  
" authority that no officer should absent himself  
" from the State for more than thirty days, or  
" that he should not discharge the duties of his  
" office after he had attained the age of sixty  
" years, those provisions would amount to condi-  
" tions, upon which the incumbent's right to hold  
" the office depended, but they would in no  
" sense constitute official duties—duties pertain-  
" ing to his office. Provisions to the effect that  
" a person shall not be eligible to a particular  
" office who is not of a designated age, or a resi-  
" dent or elector of the proper county, district,  
" etc., are qualifications which he must possess in  
" order that he may be eligible to, and hold the  
" office, but they clearly are not duties pertaining  
" to the office. We are not called upon in this  
" case to express any opinion as to the power of  
" the Legislature to impose upon a constitutional  
" officer a new or additional condition, affecting  
" the tenure of his office or his right in any re-

"spect to hold the same; but it is sufficient in  
"this case to say, that the neglect with which the  
"defendant is charged by the indictment is not  
"the neglect of a 'duty enjoined by law,' within  
"the meaning of Section 176, Penal Code. It is  
"not claimed that the defendant is liable to  
"punishment under any other section of the  
"Penal Code. The indictment, in our opinion,  
"does not charge any offense. The prisoner is  
"therefore entitled to be discharged from custody,  
"and it is so ordered."

See also—

Baggs' case, 11 Coke Rep. 93.

*Rex vs. Richardson*, 1 Burr, 517 (3 Geo. 11).

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On the morning after the above argument was made, the Court (composed of five Judges) rendered the following

### Decision.

JUDGE CARY: This is a proceeding to remove Isaac S. Kalloch, Mayor of the city of San Francisco, from office, under the provisions of an Act of the Legislature of the State of California, entitled "An Act providing for the removal of civil officers for violation of official duties," approved March 30, 1874. The complaint sets forth at large the various acts committed by the respondent, charged as being in violation of his official

duties, and in that behalf alleges: First, that he did on divers occasions deliver certain intemperate, inflammatory, and scandalous harangues. Second, that he corruptly asked and secured gratuities and rewards for obtaining and furnishing employment to sundry persons in the public offices of the city. Third, that he solicited and accepted free railroad passes.

There is a general demurrer to the complaint, upon the ground that on the face of it it appears that the delinquencies complained of were not committed by respondent in course of his official duties as Mayor, and are therefore not within the operation of the statute.

The statute referred to provides that any officer of the State may be removed from office in the following cases:

*First.* If guilty of a willful violation of any of the provisions of the statute under which he was elected or appointed.

*Second.* For a willful violation of any statute prescribing or defining his duties and powers, or passed for his government and control.

*Third.* If guilty of any other violation of official duty.

We are all of the opinion, that in order to remove an officer for a violation of any of the foregoing provisions of the statute, it must appear, both by allegation and proof, that the act performed by him was an official act, committed

either in the corrupt or negligent performance of a duty growing or springing out of the fact that he is an officer in the performance of the duties of his office, or in a willful or corrupt neglect to perform his official duties.

It was never intended that this statute could be utilized to deprive an officer of his office because he is a ward politician or a corrupt and dangerous man, or one given to making indiscreet or inflammatory speeches. Laws of a different character, providing for a widely different mode of procedure, are in force to meet such cases, by the punishment and removal of the offender from office. It was clear to us that the acts charged in the complaint as a ground for the removal of the respondent from his office were not performed by him under color of, or by virtue of, his position as Mayor of the city and county of San Francisco. It is not our purpose, however, at this time, to state at large our reasons for this conclusion. To do so opens up a field of debate altogether too extensive. The questions arising in this case up to this point have been elaborately presented, and have been discussed with distinguished ability on both sides, rendering it quite unnecessary for the Court to do more than announce its decision, and that is:

*First.* That the scope and purpose of the Act of 1873-4 was to provide a summary remedy for the removal of public officers guilty of nonfeas-

ance or misfeasance in office in the course of their official duties, and not otherwise.

*Second.* That the acts charged against the respondent were not committed by him in the course of, or in the line of, his official duties as Mayor, but as a private citizen, and we therefore hold that he is not within the meaning or operation of the statute, or of the mischief against which it so carefully provides.

It results that the demurrer must be sustained and the proceedings dismissed, and it is so ordered.

CARY, Judge.

(Judge Latimer agreed with his associates on all points except that which related to railroad passes—Article XII, Section 19, of the Constitution—upon which point he filed a dissenting opinion.)

PROPOSED  
NEW CHARTER  
FOR THE  
CITY AND COUNTY  
OF  
SAN FRANCISCO;

BEING AN ADAPTATION OF THE CONSOLIDATION ACT OF THE LATE HORACE HAWES TO THE PROVISIONS OF THE NEW CONSTITUTION, WITH SOME AMENDMENTS BELIEVED TO BE IN THE PUBLIC INTEREST.

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PREPARED BY JOHN E. SWIFT, COUNSELOR AT LAW,

FOR THE

EXECUTIVE COMMITTEE OF THE TAXPAYERS' UNION, OF 1873.

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SAN FRANCISCO:

FRANK EASTMAN & CO., PRINTERS, 500 CLAY STREET.

1879.



TO THE  
PEOPLE OF SAN FRANCISCO.

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The "Tax-payers Union" was organized several years ago, for purposes believed by its members to be for the public good. The exigencies that called the Union into existence have passed, leaving some funds still in the hands of the Executive Committee. Such being the fact, it was thought that this money should be expended for some purpose, if possible, equally public spirited and unselfish with the original object of the Society. It is hoped we may meet the wishes of the citizens who contributed this money, by spending it to aid the incoming Legislature in the duty which devolves upon it of adapting our Municipal Charter to the provisions of the New Constitution.

With this hope and object, the Executive Committee engaged gentlemen of experience in such matters, each acting wholly independent of the other, to draft two legislative bills. After careful examination of the results produced, it has been agreed that the bill printed herewith, prepared by John F. Swift, is the most satisfactory, as providing for the least possible change in our present laws, consistent with the provisions of the new organic act of the State, and at the same time securing to us such additional checks and guards against maladministration of our city affairs as experience and observation have shown to be necessary.

We, therefore, take the liberty of placing the "proposed new charter" before the public for the examination and criticism of citizens and the press, only assuring them that whatever faults it may have, at least it has not been produced to promote any private or selfish end.

Respectfully,

TAX-PAYERS' COMMITTEE,  
*Of 1873.*



# PROPOSED NEW CHARTER.

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AN ACT TO PROVIDE FOR THE CLASSIFICATION OF CORPORATIONS FOR MUNICIPAL PURPOSES, AND FOR THE ORGANIZATION, INCORPORATION, AND GOVERNMENT OF CONSOLIDATED CITIES AND COUNTIES OF OVER ONE HUNDRED THOUSAND POPULATION.

*The people of the State of California, represented in Senate and Assembly, do enact as follows :*

SECTION 1. Corporations for municipal purposes shall consist of—

- I. Cities not merged or consolidated with counties to be known as cities.
- II. Cities merged and consolidated with counties to be known as cities and counties.
- III. Towns.

## CLASSIFICATION OF CITIES AND TOWNS.

SEC. 2. All corporations for municipal purposes, whether heretofore or hereafter incorporated and organized, shall be classified in proportion to population in the following manner :

- I. Cities and cities and counties of more than one hundred thousand population, which shall be classified as cities or cities and counties of the first class.
- II. Cities and cities and counties of less than one hundred thousand and more than thousand population, which shall be classified as cities or cities and counties of the second class.
- III. All municipal corporations with less than thousand population, which shall be cities of the third class or towns.

## PUBLIC OFFICES TO BE KEPT OPEN EXCEPT ON NON-JUDICIAL DAYS.

SEC. 7. The Mayor, Sheriff, County Clerk, County Recorder, Treasurer, District Attorney, Auditor, Tax-Collector, Assessor, City and County Attorney, Superintendent of Streets and Highways, Surveyor, shall keep public offices which shall be kept open for the transaction of business every day in the year except Sundays, Christmas, New Year's, Fourth of July, Thanksgiving, the twenty-second of February, and on any days during which a general election shall be held, between the hours of nine o'clock A. M. and five o'clock P. M.

## VACANCIES IN ELECTIVE OFFICES.

SEC. 8. Whenever vacancies occur in any of the elective offices of such city and county, and provision is not otherwise made in this or some other act for filling the same until the next election, the Mayor, with the advice of the Board of Councillors, shall appoint a person to discharge the duties of such office until the next election, when the vacancy shall be filled by election for the term. All persons so appointed shall, before entering upon their duties, take the oath of office, and give bonds as required by law. In an action or proceeding where the Sheriff is a party, or is interested, or otherwise incapacitated to execute the orders, or process, or perform other official duties therein, the same shall be executed or performed by the Coroner, who, when acting as Sheriff, shall possess all the powers and perform all the duties of such office, and be charged with all the liabilities, and entitled to the fees allowed the Sheriff for similar services, such fees, however, to be accounted for and paid into the Treasury.

SEC. 9. No fees or compensation to be paid out of the Treasury, other than those expressly allowed in this act, shall be allowed or received by any officer of such city and county, or of any district, or other subdivision thereof, nor shall any allowance or provision be made for them, or any of them, at the public expense, beyond the fixed compensation aforesaid under the name of office rent, fuel, lights, stationery, contingencies, extra services or otherwise, except that the neces-

sary and proper books, stationery, and official blanks may, at the discretion of the Mayor and Municipal Council, be purchased and supplied for the Police Court, Grand Juries, and offices of the County Clerk, County Recorder, Auditor, *Tax*, Treasurer, Assessor, Superintendent of Streets and Highways, and the Municipal Council and other Boards, and officers, the expense whereof, when the amount in each particular case shall have been previously authorized and fixed by the Municipal Council and purchased by the Commission of Supplies, may be paid out of the General Fund upon demand upon the Treasury duly audited as in this act provided. *Provided*, That the total amount of expenditures for all of the aforesaid books, stationery, and official blanks, shall not exceed the sum of dollars in any one year.

SEC. 10. Neither the Municipal Council, the Board of Education, nor any officer or Board of such City and County, or any District or other subdivision thereof, shall have any power to contract any debt or liability in any form whatsoever against such city and county, nor shall the people or taxpayers or any property therein ever be liable to be assessed for, or on account of, any debt or liability contracted or supposed or attempted to be contracted in contravention of this section.

SEC. 11. All officers of such city and county must, before they can enter upon their official duties, give bond as required by law. The bonds and sureties of such officers must be approved by the Mayor, Auditor, and Treasurer. When the amount of such official bond is not fixed by law, it shall be fixed by the Municipal Council. No banker, residing or doing business in such city and county, nor any such banker's partner, clerk, employe, agent, attorney, father, nor a brother, shall be received as surety for the Treasurer, Mayor, Sheriff, Auditor, nor any officer having the collection, custody or disbursement of money. No person can be admitted as surety on any such bond, unless he be worth, in fixed property, including mortgages, situated in such city and conuty, the amount of his undertaking over and above all sums for which he is already liable or in any manner bound,

whether as principal, indorser, or security, and whether such prior obligation or liability be conditional or absolute, liquidated or unliquidated, certain or contingent, due or to become due. All persons offered as sureties on official bonds may be examined on oath touching their qualifications. The official bond of the Auditor shall be filed and kept in the office of the Clerk of such city and county. All other official bonds shall be filed and kept in the office of the Auditor.

#### LEGISLATIVE DEPARTMENT.

SEC. 12. The Legislative power in cities and counties of the first class shall be vested in a body to be styled the "Municipal Council" of such city and county, and shall be composed of two Boards or Houses of Legislation, one to be called the "Board of Councillors" and the other the "House of Delegates."

SEC. 13. The Board of Councillors shall consist of twelve persons, to be elected by general ticket from the city and county at large, the members of which shall hold office for four years, except that of the Councillors who are elected at the first election under this Act, the six receiving the smallest number of votes shall hold their office for two years only ; so that thereafter only six shall be elected every two years. In case of a tie vote at such first election, the question of which Councillor shall hold the full and which the short term, shall be determined between the candidates so tied by lot. The Councillors shall receive each a salary of six hundred dollars a year, payable in monthly installments out of the General Fund.

SEC. 14. The Board of Councillors shall appoint a Secretary, with a salary not to exceed three hundred dollars a month, who shall keep the records of said Board. He shall be *ex officio* Clerk of the Board of Public Works and of the Board of Equalization. He shall hold office during the pleasure of the Board. He shall have power to administer oaths and affirmations in all cases, and to certify and authenticate copies of all records, papers, and documents in his official custody, and shall perform any other services required by the Board.

SEC. 15. The House of Delegates shall consist of twelve persons, to be elected every two years, one each by the qualified electors of the respective Wards, into twelve of which such city and county shall be divided for such purpose. The Delegates shall hold office for the term of two years, and shall receive each a salary of six hundred dollars a year, payable monthly out of the General Fund.

SEC. 16. The House of Delegates may appoint a Clerk, who shall keep their records and hold office during their pleasure. He shall have a salary not to exceed one hundred and fifty dollars a month; shall have power to administer oaths and affirmations, and to certify and authenticate all records, documents, and papers in his official custody. He shall perform any other service required of him by the House.

SEC. 17. Any vacancy occurring in either Board shall be filled by a person to be appointed by the Mayor, which appointee shall hold till the next election by the people.

SEC. 18. The members of the Municipal Council shall go out of office as soon after the election of their successors as the new Board can qualify and organize, which shall be within ten days.

SEC. 19. Every member of the Board of Councillors shall be a qualified voter, at least thirty years of age, and shall have been a citizen of the United States and of this State for five years, and a citizen of such city and county and a freeholder of property therein for two years next before his election.

SEC. 20. Every member of the House of Delegates shall be a qualified voter, at least twenty-five years of age; shall have been a citizen of the United States and of this State, and a citizen and taxpayer of such city and county at least two years next before his election.

SEC. 21. Every member of either branch of the Municipal Council shall at all times during his incumbency of said office possess the following qualifications: He shall not be directly or indirectly interested in any contract with such city and county, or any department or institution thereof. He shall not have been convicted of malfeasance in office, bribery, or other corrupt practices or crimes. Any member

who fails to possess, or who shall at any time during his term of office cease to possess any of the qualifications mentioned in this Act as a qualification, shall thereby forfeit his seat in the Board or House to which he belongs, and the vacancy shall be filled as in other cases. If any member of either branch absent himself from the State, or neglect to attend the meetings of the Board or House to which he belongs for a period of thirty days, his office shall be declared vacant by said Board, and a successor may be appointed, to hold till the next election by the people, as provided in other cases.

SEC. 22. Each Board or House shall elect its own officers, except as to the presiding officer of the Board of Councillors. The Mayor shall preside at all the sessions of the Board of Councilors, without the right to vote. In his absence, during any session, the Board shall appoint one of its members as President *pro tempore*, who shall, however, have the same right to vote as other members. Each House shall be the judge of the election returns and qualifications of its own members; may determine the rules of its own proceedings, except as herein provided. Each House shall keep a record of its acts and allow the same to be published, and the yeas and nays on any question shall, at the request of any member, be entered on the Journal of the House; may arrest and punish by fine, not exceeding five hundred dollars, or imprisonment as provided by ordinance, not exceeding thirty days, or both, any person not a member who shall be guilty of disrespect to the Board or House by disorderly or contemptuous behavior in its presence during its sessions; may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members elect, may expel a member.

SEC. 23. The House of Delegates shall elect one of their own number presiding officer of said House, who shall be designated as the "Chairman" or "Speaker" thereof, as such House may determine. A majority of the number of members of either House shall constitute a quorum to do business, and no regulation, resolution, ordinance, or order of either House can pass without the concurrence of a majority of all the members elected to such House; but a

smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as the House or Board may provide.

SEC. 24. All sessions, acts, and resolutions of each House shall be public. Neither House shall, without the consent of the other, adjourn for more than seven days at any one time, nor to any other place than that in which the two Houses may be sitting.

SEC. 25. No member of the Municipal Council shall, during the time for which he is elected, be eligible or appointed to any office under the city and county, except offices elected by the people; nor shall any member, while such, be an employee of such city and county, or any Board or Department thereof; or of either branch of the Municipal Council, in any capacity whatever; and no compensation shall be audited or paid for services as such officer or employee; and no act, ordinance, or resolution shall ever be passed whereby any member of either House shall become the disbursing officer of such city and county, or any Board or Department thereof, or handle or pay out any of its money upon any pretence whatever.

SEC. 26. No member of either branch of the State Legislature shall be eligible or qualified to hold any office or employment under the government of such city and county, or any of its officers, Boards, or Departments, except such as are elected by a direct vote of the people during the period of or for one year after the expiration of the term for which such person was elected as such member of the State Legislature.

#### COMMITTEES OF INVESTIGATION.

SEC. 27. Each branch of the Municipal Council shall have power by resolution to appoint a committee of three members of such branch, to be denominated the "Finance Committee" thereof, which committee, in addition to its other duties, shall have the power, and it shall be its duty, as often as required by the body to which it belongs, or whenever the committee may deem it necessary, to investigate the transactions and accounts of any and all officers, Depart-

ments, and Boards appertaining to the government of such city and county, as well as the acts and transactions of all persons dealing with any department thereof, or in any manner affecting the interests of such city and county as a body politic, and report the same to said branch. Said committees, respectively, shall have full power to send for all persons and papers, and enter into, examine, inquire, and investigate all offices and places, to administer oaths and affirmations, to examine witnesses, and compel the attendance by subpœna and attachment for contempt, and may imprison in the County Jail, or other prison, any person refusing to obey or testify, as well as any officer or person failing or refusing obedience to the orders to show records, papers, or books, or to testify when required so to do. The Sheriff of the county shall enforce all orders of said committees, and attend upon them in like manner as upon the Courts of Record. The Board or House ordering such investigation shall notify the Mayor thereof, who may be present and participate.

SEC. 28. One session of the Municipal Council shall be held annually, beginning on the first Monday in January.

#### PASSAGE OF BILLS REGULATED.

SEC. 29. No ordinance shall be passed except by bill, and no bill shall be so amended in passage as to change its original purpose. No bill shall become a law unless the same be read on three several days in each House, unless in case of urgency two thirds of the House where such bill may be pending shall, by a vote of yeas and nays, dispense with this provision. No bill shall be considered for final passage unless the same has been reported upon by a committee. No bill shall contain more than one subject, which shall be expressed by its title. On the final passage of all bills the vote shall be by "yeas" and "nays" upon each bill, separately, and the names of the members voting for and against the same shall be entered on the journal.

SEC. 30. No amendments to bills by either House shall be concurred in by the other except by a vote of a majority of all the members elected thereto, taken by yeas and nays,

and the names of those voting for and against recorded upon the journal thereof, and reports of Committees of Conference shall be adopted by either House only by the vote of a majority of all the members elected thereto, taken by "yeas" and "nays," and the names of those voting recorded upon the journals.

SEC. 31. No ordinance shall be revived, re-enacted, or amended, by mere reference to the title thereof, but the ordinance or section so affected shall be set forth at length, as if it were an original section or ordinance.

SEC. 32. When a bill is put upon its final passage in either House, and failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be immediately taken, and the subject finally disposed of before the House proceeds to any other business.

SEC. 33. No bill shall become an ordinance until the same shall have been signed by the presiding officer of each of the two houses, in open session, in authentication of its adoption by such House. In signing such bill for authentication, the presiding officer shall call the attention of the House to the bill, and that he is about to sign it, and if any member request, the bill shall be read at length for information as to its correctness as enrolled. If any member object that the bill is not the same in substance and form as when considered and passed by the House, such objection shall be passed upon, and, if sustained, the presiding officer shall withhold his signature.

#### AUTHORIZATIONS AND OTHER ORDINANCES.

SEC. 34. No general appropriation act or authorization shall ever be passed, but all appropriations shall be for the specific amount of the claim to be paid, and no more; and each ordinance or resolution authorizing the payment of money shall contain one claim only, which shall be expressed in the title. Every ordinance or resolution of the Municipal Council providing for any specific improvement, the granting of any privilege, or involving the lease or appropriation of public property, or the expenditure of public moneys (ex-

cept for sums less than five hundred dollars), or levying tax or assessment, and every ordinance or resolution imposing a new duty or penalty, shall, after its introduction in either House, be published, with the "yeas" and "nays," in the newspaper doing the city and county printing, at least five successive days before final action upon the same by the House in which it was introduced ; and in case such ordinance or resolution shall be amended before final passage in said House, then the bill, as amended, shall be published by the other House, in the same manner, before final action by said House thereon. And every such ordinance, after the same shall have passed both Houses, shall, before it takes effect, be presented to the Mayor for his approval. If he approves, he shall sign it ; if not, he shall return it, within ten days, to the House in which the same originated, with his objections in writing. Said House shall then enter the objections on the journals, and publish them in the newspaper doing the city printing. At the next stated meeting thereafter, said House shall proceed to reconsider such bill. If, after such reconsideration, it again passes both Houses by "yeas" and "nays" entered in the journals, nine of the members elected to each House voting therefor, it shall become a law, notwithstanding the Mayor's objections. Should any such ordinance or resolution not be returned by the Mayor within ten days after he receives it, it shall become valid the same as if it had received his signature. Where a claim against the Treasury amounts to more than five hundred dollars, it shall not be lawful to divide or break up the same into several sums of less than that amount so as to evade the provisions of this section concerning claims, and any effort or attempt to accomplish such unlawful division or breaking up of a claim, shall be deemed, as to every member of the Municipal Council, or other officer consenting thereto or aiding the same, a misdemeanor in office, and be cause for his removal, and shall also render the claim so divided or broken up, or attempted to be divided or broken up, absolutely null and void, and the same shall never afterward be allowed or paid out of such Treasury. All ordinances authorizing the payment of any

money out of the Treasury, or any claim thereon, shall, upon their second reading, be referred to the appropriate Standing Committee of the House where the bill is introduced, who shall present the same to the Auditor, in order that he may certify that there is sufficient money in the proper fund out of which such claim can lawfully be paid, and that such appropriation can be made without violating the provisions of Sections 60, 61, and 62, of this act, and until the Auditor certifies in writing, signed by his name, that there is sufficient money in the proper fund, and that the authorization can be made without violating the provisions of said sections 60, 61, and 62, no further proceedings shall be had nor stages passed with such bill. It shall be the duty of the Auditor, with reasonable promptness, to ascertain the facts, and to give the certificate when the facts warrant him in doing so, and not otherwise.

#### POWERS OF THE MUNICIPAL COUNCIL.

SEC. 35. The powers of the Municipal Council and all other Boards, Commissioners, and officers, are those specifically named in this act, and they are prohibited from exercising any other.

SEC. 36. The enacting clause of ordinances shall be in the following terms: "The Municipal Council of the City and County of hereby ordains as follows:"

SEC. 37. The Municipal Council shall further have power by regulation or ordinance:

*First.* To provide for the security, custody, and administration of all property of such city and county without any power to sell or encumber the same, or lease any part thereof for more than three years, except, however, that such personal property belonging to the Fire, Street, or other Departments, as they deem unsuited to the uses and purposes for which the same was designed, or so much worn and dilapidated as not to be worth repairing, may be sold or exchanged.

*Second.* To authorize the expenditure by the Board of Public Works, in the cleaning of streets and sewers, not to exceed dollars in one year: *Provided,* That

such work shall not be done by contract, but shall be done by such Board direct, and for such purpose the Board may purchase, subject to the approval of the Municipal Council, as other purchases are made, a sufficient number of sweeping machines, horses and appliances, at an expense not to exceed dollars. The Board of Public

Works may employ prisoners under sentence to the House of Correction or labor to work in cleaning streets or sewers, or upon any public work in their department.

*Third.* To allow and authorize the expenditure by the Board of Public Works of a sum not to exceed dollars in any one year, in the repair of accepted streets, sewers, public highways, county roads, alleys, courts, squares and places, not under the provisions of this act, or in accord with its principles chargeable to private property.

*Fourth.* To provide for cases omitted in this act, and in conformity with the principles adopted in it when recommended by the Board of Public Works for opening, altering, extending, constructing, repairing, or otherwise improving public streets and highways at the expense of the property benefited thereby, without any recourse, in any event, upon the city and county, or upon the Public Treasury, for any portion of the expense of such work, or any delinquency of the property holders or owners.

*Fifth.* To provide for lighting the streets. But no contract for lighting streets or public buildings shall ever be made for more than one year in duration, nor shall any contract to pay more for gas or other illuminating material than is legally charged to ordinary consumers, or than the usual market rates, be valid.

*Sixth.* To establish, maintain, regulate and control for such city and county, a Department of Public Health with a Health Officer, Physicians and Inspectors, constituting a Board of Health; to define their powers and duties, and to pay them when necessary out of the Hospital and Alms House Funds. There shall be a Health Officer appointed by the Mayor with the consent of the Board of Councillors. The total expenses of the Health Department, including all salaries, shall not exceed dollars in any one year.

*Seventh.* To provide water for all municipal purposes and to pay for the same where lawful and necessary. In case water is supplied by any person, corporation, or company holding a valid franchise under the laws of this State to collect water rates from such city and county for water used for municipal purposes, then the lawful rates, and no more, as established each year may be paid for the water used by such city and county during such year, and no longer, and it shall not be lawful to make a special contract with such person, company, or corporation for water so as to vary from the rates fixed by law.

*Eighth.* To regulate market-houses and market-places.

*Ninth.* To provide for inclosing, improving, and regulating all public grounds of such city and county; but all improvements and inclosures must be made to the satisfaction of and after estimates by and only upon the recommendation of the Board of Public Works in the same manner that streets are improved, and no more than dollars shall be expended for such purposes in any one fiscal year.

*Tenth.* To prohibit the erection of wooden buildings or structures within any fixed limits where the streets have been established and graded, or ordered to be graded, and to restrict and limit the height of such buildings or structures. To regulate the sale, storage, and use of gunpowder, and to restrict the limits within which may be manufactured or kept giant powder, dynamite, nitro-glycerine, or other explosive or combustible materials and substances, and the maintenance of acid-works; and make all useful regulations in relation to the manufacture, storage, and transportation of all such substances, and the maintenance of acid-works, slaughterhouses, brick-burning, tanneries, and all other mannfactories and works of every description that may jeopardize the public health or safety, and to exclude them from the city and county when necessary, or to restrict them, or any of them, to a district. To make all necessary regulations for protection against fire, as well as such rules and regulations concerning the erection and use of buildings as may be necessary for the safety of the inhabitants.

*Eleventh.* To determine the fines, forfeitures, and penalties that shall be incurred for the breach of regulations established by the said Municipal Council, and also for a violation of the provisions of this Act where no penalty is affixed thereto or provided by law; but no penalty to be imposed shall exceed the amount of one thousand dollars or six months' imprisonment, or both. And every violation of any lawful order, or regulation, or ordinances of the Municipal Council, is hereby declared a misdemeanor or public offense, and all prosecutions for the same shall be in the name of The People of the State of California.

*Twelfth.* To regulate and provide for the employment of prisoners sentenced to labor on the public works of such city and county, and to maintain and regulate city and county jails and prisons with manufacturing or other laboring establishments or appliances connected therewith.

*Thirteenth.* To maintain and regulate a Home of the Inebriate, at a monthly expense not to exceed eight hundred dollars; but no money shall be paid to any private person, corporation, or society for such or any other benevolent purpose.

*Fourteenth.* To provide for the erection of a work-house, house of refuge or house of correction, and for the regulation and government of the same, and for keeping at hard labor the inmates thereof.

*Fifteenth.* To maintain and improve the city cemeteries at an expense not to exceed                                    dollars for any one fiscal year, and to pay out of the General Fund a Keeper thereof, to be appointed by the Mayor with the consent of the Board of Councillors, at a salary not to exceed                                    dollars a month.

*Sixteenth.* To license and regulate hackney carriages and other public passenger vehicles, and to fix the rates to be charged for the transportation of persons, baggage, goods, merchandise, and property, or either, thereon; and to license and regulate all vehicles used for the conveyance of merchandise, earth, and ballast, or either; and also to license and regulate persons and parties employed in conveying baggage, property, and merchandise, or either, to or from

any of the wharves, slips, bulkheads, or railroad stations within the limits of such city and county. To fix and establish the amount of every license paid into the City and County Treasury for city and county purposes, at such rate as such Council shall determine. To provide for the summary removal and disposition of any or all vehicles found in the streets, highways, and public squares, during certain hours of the day or night, to be designated by the Council, and in addition to all other remedies, to provide by regulation for the sale or other disposition of such vehicles. To protect the public from injury by runaways, by punishing persons who negligently leave horses or carriages in the street, and to confiscate and sell such horses and carriages, and other needful penalties to impose. To prescribe the width of the tires of all drays, trucks, and carts, in accordance with the weight to be carried thereby, for the preservation of the streets and highways.

*Seventeenth.* To regulate, license, and control the business of keeping intelligence offices, prescribe the method of conducting said business, and to enforce by fines and penalties the payment of the license, and any violation of the regulation touching said business. To license and regulate pawnbrokers, and to restrict the rate of interest taken by such pawnbrokers not below one per cent. per month, and to enact regulations to protect the public in dealing with them.

*Eighteenth.* To direct and control the Fire Department of such city and county in conformity with the laws.

*Nineteenth.* To fix the fees and charges to be collected by the Surveyor of said city and county for certificates of surveys for buildings or other purposes, and to provide for a sufficient corps of Deputy Surveyors to perform such work, to be paid from such fees only; also to regulate the fees to be charged by the Superintendent of Streets and Highways, the County Recorder, and any and all other municipal officers, where their fees are not otherwise fixed by law, and compel the payment of all such fees and charges into the city and county treasury, into the proper fund, in accordance with the principles of this Act.

*Twentieth.* To provide by regulation where it may be

necessary for carrying the provisions of this Act, as to said city and county, into effect; but nothing in this clause shall authorize the expenditure of money, or the creation of any debt.

*Twenty-first.* To license and regulate for the purposes of city and county revenue all such callings, trades, and employments as the public good may require to be licensed and regulated. To provide for and enforce with penalties or otherwise the collection and due payment into the City and County Treasury of all moneys so due or raised, and for that purpose to authorize the appointment by the Mayor, with the consent of the Board of Councillors, such Chief Collector, clerks and accountants as may be necessary for that purpose, to prescribe their powers, duties, bonds, liabilities, and compensation, not, however, to exceed two hundred dollars a month for the chief nor one hundred dollars a month for assistant. When it is possible, the police officers must, by order of the Municipal Council, be employed to collect the licence on their respective beats, but no additional compensation shall be allowed them for such service.

*Twenty-second.* To provide for the care and maintenance of the indigent sick of said city and county, but not to incur any expense therefor exceeding the sum allowed by this act.

*Twenty-third.* To provide and pay for the construction and repair of hydrants, fire-plugs, cisterns, and pumps in the streets; and to expend therefor not to exceed the sum of                            dollars in any one fiscal year; to regulate the supply and delivery of water for fire and other purposes; and to establish and prescribe the size and capacity of all reservoirs, mains, and distributing service where such city and county may be supplied with water by private persons, corporations, or otherwise, and to enforce the same by suitable fines and penalties, if necessary; and to make all other needful rules and regulations for public security and convenience. The construction and repair of public hydrants and fire plugs shall be done under the supervision of the Board of Public Works, and let by

contract to the lowest bidder, the same as other public works, materials, or supplies are let.

*Twenty-fourth.* To provide ways and means for the prosecution of the claims of such city and county to any land or other property or right claimed by such municipality.

*Twenty-fifth.* To provide for the appointment by the Mayor of a Weigher of Coal, without salary, and to regulate and define his duties, and establish rates of charges to be collected from persons requiring his services, and for his compensation from such rates and charges alone, and with no claim upon such city and county.

*Twenty-sixth.* To authorize and direct the summary abatement of nuisances; to make all regulations which may be necessary or expedient for the preservation of the public health and the prevention of contagious diseases; and to levy, assess and collect, by sale or otherwise, from the property upon which such nuisance is situated, a special tax to defray the expenses of such removal or abatement, and, in addition, to provide fines and penalties against individuals who may be guilty of maintaining any nuisances, and enforcing the same until such nuisance be removed or abated; to provide by regulation for the prevention and summary removal of all nuisances and obstructions in the streets, alleys, highways, and public grounds of such city and county, and to prevent or regulate the running at large of dogs, and to authorize the destruction of the same when at large contrary to ordinance.

*Twenty-seventh.* To prohibit and suppress or exclude from certain limits all houses of ill-fame, prostitution, and gaming; to prohibit and suppress or exclude from certain limits, or to regulate all occupations, houses, places, pastimes, amusements, exhibitions, and practices which are against good morals, contrary to public order and decency, or dangerous to the public safety.

*Twenty-eighth.* To require by ordinance all contractors for street work, or other persons lawfully undertaking to improve, grade, or alter streets or public highways, to erect fences or barriers, to keep lights at night, and to take other necessary precautions to protect the public from damage,

loss, or accident, by reason of such grading, alteration, or improvement, and to fix and prescribe penalties for the violation of the provision of such ordinance.

*Twenty-ninth.* To provide for the safe-keeping and disposition of lost, stolen, or unclaimed property of every kind which may, at any time, be in the possession or under the control of the police of such city and county.

*Thirtieth.* To regulate and, when necessary, to suppress all public demonstrations and processions, so as to prevent interference with public traffic, and to secure the good order of the city and county.

*Thirty-first.* To regulate, prescribe the powers and duties, and provide for the payment of the Police Department and forces of such city and county, subject to the conditions and restrictions in this act contained to make and maintain police regulations in such city and county. In the suppression of any riot, public tumult, disturbances of the peace, or organized resistance to the laws or public authorities in the lawful exercise of their functions, the police authorities of such city and county shall be vested with all the powers of the State, and may be commanded by the Mayor to suppress the same and enforce the laws. The Municipal Council are empowered to enact ordinances regulating such power and prescribing the manner of exercising the same, and all police powers not expressly granted to the Fire and Police Commissioners are vested in the Municipal Council and Mayor.

*Thirty-second.* To provide for the appointment by the Mayor, upon the recommendation of the Board of Fire Underwriters, or otherwise, of a Fire Marshal, and to define and prescribe his duties, which shall be for the protection of property saved from fire, to aid in the prevention of conflagrations and investigate the causes thereof, and such other duties relating to such matters as the Board may prescribe.

*Thirty-third.* To maintain and regulate a fire alarm and police telegraph in such city and county, at an expense not to exceed dollars in any one year.

*Thirty-fourth.* To require the owners of lots to prevent sand from drifting, being blown, or otherwise moved therefrom into or deposited upon any paved, planked, or mac-

adamized street, alley, place, park, thoroughfare, or other public property, and to enforce all such regulations by sufficient fines and penalties.

### HOUSE OF CORRECTION.

*Thirty-fifth.* To maintain, regulate, govern, manage, and carry on a House of Correction, and to utilize therein and thereby the labor, of all prisoners committed to the jail or House of Correction of such city and county by the criminal Courts; to prescribe rules of commitment and detention of prisoners, hours of labor and all necessary rules, regulations and restrictions for the proper operation of said institution. All prisoners sentenced to a term in the County Jail or House of Correction shall be deemed to have been sentenced to labor during such term. The Judges of any Criminal Court in said city and county may sentence criminals to the House of Correction, when in the judgment of such Judge the criminal is too young to be sentenced to the State Prison or when it is deemed better for the well being of the prisoner, *provided*, that the sentence of such prisoner, if sent to the State Prison, would not be more than two years. To provide for the appointment by the Mayor, with the consent of the Council, of a Superintendent of said House, whose salary shall not exceed one hundred dollars a month, and to prescribe his duties and powers. No other employee of said House shall receive over thirty-five dollars a month, nor shall the entire cost of the Department exceed X  
dollars in any one fiscal year.

### INDUSTRIAL SCHOOL.

*Thirty-sixth.* To maintain and regulate an Industrial School, for the detention, management, reformation, education, and maintenance of such children under the age of eighteen years as shall be committed or surrendered thereto by the Courts of said city and county as vagrants, living an idle or dissolute life, or who shall be convicted by the Police or other criminal Courts of any crime or misdemeanor, or who, being tried for any crime or misdemeanor in such

Court, shall be found to be under fourteen years of age, and to have done an act which, if done by a person of full age, would be a crime or misdemeanor; and said Council is empowered to regulate the commitment, detention, and discharge of such children, and to designate and prescribe the causes, terms, and conditions thereof. Such children shall be kept at such employments and be instructed in such branches of useful knowledge as may be suitable to their age and capacity. The Council may provide for binding-out such children as apprentices during their minority, to learn proper trades and employments. There shall be a Superintendent of said Industrial School, to be appointed by the Mayor, with the consent of the Board of Councillors. He shall be deemed a public officer, whose salary shall not exceed one hundred dollars a month, and such other employees as may be necessary, with salary not to exceed thirty-five dollars a month each. The Council may expend in the maintenance of said school, including salaries, medical attendance, and all other expenses, a sum not to exceed

dollars a month.

#### ALMS-HOUSE AND HOSPITAL.

*Thirty-seventh.* To establish and maintain an Alms-house, a City and County Hospital, and a Small-pox Hospital, and to make rules and regulations for the management thereof; the admission, treatment, control, and discharge of persons and patients therein and therefrom; to authorize the Mayor, with the consent of the Council, to appoint a Resident Physician of said Hospital, a Resident Physician, Superintendent, matron, cook, and farmer for said Alms-house, and such other employees, nurses, and assistants as may be necessary for said institutions. The Resident Physician of the Hospital shall be Physician to the Small-pox Hospital, and his salary shall not exceed two hundred dollars a month. The salary of the Physician at the Alms-house shall not exceed one hundred and twenty-five dollars; the Superintendent, one hundred and fifty; the matron, fifty; the cook, fifty, and the farmer, thirty-five dollars per month each; no other employees of said institutions shall have over thirty dollars per

month. The contracts for the subsistence of the inmates of said institutions, and all drugs and supplies therefor, shall be given out and let by the Board of Councillors and entered into with the Commissioners of Subsistence and Supplies, as elsewhere in this Act provided. For the support of the Alms-house and Hospital, and the payment of all salaries, wages, and expenses thereof, the Municipal Council is authorized to expend not to exceed the sum of dollars per month, and for the Small-pox Hospital not to exceed dollars in any one year.

*Thirty-eighth.* To order paid out of the Surplus Fund any final judgment against the city and county; but no judgment shall be deemed final till passed upon finally on the merits by the Supreme Court, nor until the City and County Attorney has certified in writing that no further litigation is possible or for the public good.

*Thirty-ninth.* To maintain, regulate, and govern a Public Pound, fix the limits within which animals shall not run at large, and appoint Poundkeepers, who shall be paid for out of the fines imposed and collected of the owners of impounded animals, and from no other source.

*Fortieth.* To appoint an Assistant Prosecuting Attorney, with a salary not to exceed two hundred dollars a month, payable out of the General Fund.

*Forty-first.* To allow only on the recommendation of the Board of Works, and order paid out of the General Fund, not exceeding dollars in any one fiscal year, for improvement of streets bordering on the water front, and not exceeding dollars in any one fiscal year for repairs and improvement of sewers and streets in front of public property.

*Forty-second.* To allow and order paid out of the General Fund such sums as may become due for burying the indigent dead and for conveying insane persons to the Insane Asylum, and not exceeding one hundred and fifty dollars a month for contingent expenses of the Mayor, to be by him reported quarterly to the Council.

*Forty-third.* To allow and order paid out of the General

Fund, only on the recommendation of the City and County Attorney, not exceeding dollars in any one year for the employment of special counsel.

*Forty-fourth.* To allow and order paid out of the General Fund, when recommended by and under the supervision of the Board of Public Works, not exceeding dollars in any one fiscal year for cleaning sewers, cess-pools, and street-crossings.

*Forty-fifth.* To expend and order paid out of the General Fund, when recommended by the Board of Public Works, and not otherwise, not to exceed two thousand dollars per month for objects of urgent necessity, and not to exceed one hundred thousand dollars in any one fiscal year for repairs to public buildings.

*Forty-sixth.* To enact such general and special police regulations for such city and county, its port and harbor, as shall secure the health, comfort, and security of the inhabitants, the safety and security of property and life, and to enforce the same therein; but this provision shall not authorize the expenditure of any money or the creation of any debt.

*Forty-seventh.* To make needful rules and regulations for the administration and conduct of all departments and offices of such city and county, so as to secure more perfect safety of the public funds and greater efficiency in all departments of the service, and to enforce the observation of such rules and regulations.

## FINANCE AND REVENUE.

SEC. 38. *First.* On or before the fourth Monday of June, annually, the Municipal Council of such city and county shall levy the amount of taxes for State, city and county purposes, required by law to be levied upon all property not exempt from taxation, said amount to be such as the said Council may deem sufficient to provide for the payment of all demands upon the Treasury thereof authorized by law to be paid out of the same; *provided*, that such taxation, exclusive of the State tax, shall not, in the aggregate, exceed the rate of one dollar upon each one hun-

dred dollars valuation of the property assessed; *provided further*, that the said Municipal Council shall, in making the said levy of said taxes, apportion and divide the taxes so levied, and to be collected and applied to the several specific funds known as the Corporation Debt Fund, General Fund, School Fund, Street Light Fund, Street Department Fund, or other fund provided for by law, according to the estimate of said Council of the necessities of the said funds, except that the rate for the School Fund shall not exceed twenty-five cents on each one hundred dollars valuation of property, nor shall the aggregate raised for said School Fund exceed twenty-five dollars for each pupil who shall have attended and been taught the preceding year; and *provided further*, that the said Municipal Council shall authorize the disbursement of said money for the purposes hereinafter mentioned, and at the close of each fiscal year the said Council shall direct the Treasurer to transfer all surplus moneys of all funds excepting the School Fund, after liquidating or providing for all outstanding demands upon said funds, to the General Fund, but no money shall be transferred from either of the said funds to another, nor used in paying any demands upon such other fund until all the indebtedness arising in any fiscal year, and payable out of said funds so raised for said fiscal year, shall have been paid and discharged.

*Second.* The Corporation Debt Fund shall be applied to and used for the payment of the interest and to extinguish or provide for the extinguishment of the lawfully contracted funded debts of such city and county in accordance with laws in force at the time of the re-organization of such city and county under this Act.

*Third.* The General Fund shall be applied and used for the payment of all sums authorized by law to be paid out of the General Fund, and not otherwise provided for in this Act.

*Fourth.* The School Fund shall be applied and used for the payment of all sums authorized by law to be paid out of the School fund.

*Fifth.* The Street Light Fund shall be applied and used

in payment for lighting the streets of such City and County, and for the repair of lamps and posts in pursuance of any legal contract of said City and County.

*Sixth.* The Street Department Fund shall be applied and used for repairing and improving all streets, lanes, and the crossings thereof, which shall have been accepted by the Municipal Council, so as to become a charge upon such city and county; for cleaning streets, lanes, crossings and sewers; for all street work in front of or assessable upon property belonging to such city and county, except school lots, which shall be payable out of the School Fund; for all street work on the water front of such city and county not by law assessable upon private property; for all work authorized by the said Council upon the recommendations of the Board of Public Works as immediately essential for the safety of life, limbs or property, or necessary for public health, or which cannot be by law assessed upon private property, and for such objects relating to streets and highways as shall be directed by law to be paid therefrom. All moneys received from licenses on vehicles, from the income tax from street railroads, from fines and penalties for violation of any law or ordinance regulating vehicles on the public streets, shall be paid into the Street Department Fund.

#### PAYMENTS FROM THE TREASURY.

SECTION 39. Payments of demands on the Treasury of such city and county may be made for the following objects, and none others:

*First.* Out of the Police Fund the fixed salaries of the officers, members, and attaches of the Police force, as specifically authorized by law, or by ordinance or regulation made in pursuance thereof.

*Second.* Out of the School Fund the salaries or wages of teachers in the common schools, rents, repairs, building and furnishing of school houses, and other matters as specifically provided by this Act.

*Third.* Out of the General Fund the fixed salaries of officers of such city and county, and of the Fire Department, and the legal fees of jurors and witnesses in criminal cases,

when the same by law are payable out of the County Treasury.

*Fourth.* Out of the Police Fund bills for the subsistence of prisoners, previously authorized by the Municipal Council, contracted for by the Commissioners of Subsistence and Supplies, as in this Act provided and duly audited, which bills must minutely specify each several item composing the demand.

*Fifth.* Out of the General Fund bills duly audited for expenditures in the care and maintenance of the indigent sick of such city and county, previously authorized by the Municipal Council, contracted for by the Commissioners of Subsistence and Supplies, in the manner herein provided for, and not exceeding the amount in this Act allowed for that purpose.

*Sixth.* Out of the General Fund the expense legally incurred for books, stationery, and official blanks, as authorized by the provisions of this Act; also, expenditures not exceeding                      dollars during any one month for objects of urgent necessity other than those heretofore specified in this section, when the amount thereof in each particular case shall have been previously authorized and fixed by the Municipal Council, in the lawful exercise of their powers, and after having been duly recommended by the Board of Public Works or head of the department where the same is needed.

*Seventh.* Out of the Surplus Fund expenditures previously authorized by the Municipal Council in the lawful exercise of its powers for objects other than those specified in the preceding subdivisions of this Section, may be paid out of the Surplus Fund as specified in Sections Forty-one and Forty-two, but not otherwise. At the end of each fiscal year, and after every lawful demand on the treasury then due and payable, or to accrue for that year, shall have been actually paid, taken up and cancelled, and record thereof made in the proper books, or cash in the treasury shall have been set apart and reserved equal to the amount of said demands that may then be outstanding, or to accrue for that year, and a surplus of money shall still remain in the treas-

ury, then and in such case, but not otherwise, the Municipal Council may, out of such Surplus Fund, and from no other source whatever, make appropriations for the various objects embraced within their lawful powers other than those specified in the first six subdivisions of this section, and may, in case the revenue of the year then next ensuing will, in their opinion, be amply sufficient to satisfy all demands upon the General Fund and Police Fund, set apart and reserve the moneys so appropriated, to be expended from time to time during such succeeding year, subject, however, to the provisions of section forty. Every contract whereby any money is to be paid out of the treasury for other objects than those specified in the first six subdivisions of this Section, shall be null and void as against such city and county if made before such Surplus Fund exists in the treasury, and unless it be in writing, with a printed copy of Sections 40, 41 and 42 of this Act attached to it; and in such case, the officer or officers executing the same in behalf of such City and County, in contravention of this provision, shall alone be liable in his or their individual capacity to the contracting party for the fulfillment of such contract.

SEC. 40. The demand specified in the first six subdivisions of section thirty-nine shall be paid out of any moneys in the Treasury in preference to any and all other demands whatsoever; and in case of any deficiency of funds for the payment of any of the said demands when presented, then all such demands being presented and registered by the Treasurer, as in this act required shall be paid out in any moneys afterwards coming into the said Treasury applicable thereto in the order in which the same are registered.

SEC. 41. The Municipal Council, Board of Education, Board of Public Works, Commissioners of Subsistence and Supplies, and each and every officer and board of officers of such city and county, being absolutely prohibited to contract any debt or liability, in any form, against the said city and county, the powers of the Municipal Council enumerated so far as the exercise thereof may involve the expenditure of money otherwise than for the objects and demands referred to in the preceding section, forty (40), shall be

deemed to extend only to authorizing the appropriation and application of any surplus moneys remaining in the Treasury during any one fiscal year to the objects specified in such enumeration of powers, after the demands mentioned in the first six subdivisions of section thirty-nine, due and payable during such fiscal year, shall have been paid and the several sinking funds shall have been provided and reserved for the redemption of said bonds and certificates of stock to the amount hereinbefore specified.

SEC. 42. If any expenditure not authorized by this act be incurred, they can never be paid out of the Treasury, nor shall they be deemed to constitute or lay the foundation of any claim, demand, or liability, legal, equitable, or otherwise, against such city and county. If expenditures be incurred which are authorized by this act to be paid out of the Surplus Fund in the Treasury, but not for the preferred object specified in section forty, such expenditures can only be paid out of such Surplus Funds and revenues strictly appertaining to the fiscal year in which such expenditures have been ordered or the contracts therefor entered into, and cannot be carried forward and paid out of any revenues accruing and receivable into the Treasury for any subsequent year; nor shall any demand for, or arising out of any such expenditures, contract, or consideration, be deemed to be a legal or equitable claim, or liability, against such city and county or the Treasurer thereof, or the taxable property, or taxpayers, otherwise than as is in this section provided, and no demand preferred against such city and county, or the Treasurer thereof, which is not legally obligatory under the provisions of this act, can be recognized, assumed, or legalized so as to give it any validity or authorize the payment thereof.

SEC. 43. All fines, penalties, and forfeitures imposed for offenses committed within such city and county shall be received by the Clerk or Magistrate of the respective Court and paid into the treasury thereof as a part of the Police Fund; forty per cent. of all poll-taxes collected in such city and county, or any other proportion of such poll-taxes which may be hereafter assigned to said city and county, shall also

be paid and received into the treasury thereof as part of the Police Fund. All demands payable out of said fund may, in case there be not sufficient money in the treasury arising from the sources specified in this section, be paid out of the General Fund of such city and county.

SEC. 44. The School Fund of such city and county shall consist of the moneys arising from the sources provided for in Section 230 of this act and of taxes upon property which shall be levied each year for that use by the Municipal Council of such city and county, and which shall in no case exceed the rate of twenty-five cents on each hundred dollars valuation of all property, real and personal, liable to be assessed. The General Fund consists of all moneys in the treasury not designated and set apart by law to a specified use and of the surplus of any special fund remaining after the satisfaction of all demands upon it. The surplus fund consists of any moneys belonging to the General Fund remaining in the treasury after the satisfaction of all demands due and payable which are specified in the first six subdivisions in Section 39. The fiscal year shall be the same as that of the State.

#### DUTIES OF THE TAX COLLECTOR.

SEC. 45. The Tax Collector, upon the final settlement to be made by him as such Tax Collector, according to the requirements of the law, shall be charged with and shall pay into the hands of the Treasurer the full amount of all taxes by him collected and not previously paid over, without any deduction of commissions, fees or otherwise; he shall also be charged with and be deemed debtor to the Treasury for the full amount of all taxes due upon the delinquent list delivered to him for collection, unless it be made to appear that it was out of his power to collect the same by levy and sale of any property liable to be seized and sold therefor; if the impossibility to collect any portion of such delinquent taxes have resulted from any irregularity or defect to the assessment, then the Assessor, whose duty it was to make the assessment, shall be liable and be deemed debtor to the Treasury for the amount remaining uncollected for that cause.

## DUTIES OF THE TREASURER.

SEC. 46. The Treasurer of such city and county shall receive and safely keep in a secure fire-proof vault to be prepared for that purpose, all moneys belonging to or which shall be paid into the Treasury, and shall not lend, use or deposit the same or any part thereof to or with any banker or other person, nor pay out any part of said moneys except upon demands authorized by this Act, and after they have been duly audited; he shall keep the key of said vault, and not suffer the same to be opened, except in his presence. At the closing up of the same, each day, he shall take an account and enter in the proper book the exact amount of money on hand; and at the end of every month he shall make and publish a statement of all receipts into and payments from the Treasury, and on what account. If he violates any of the provisions of this section, he shall be considered a defaulter, and shall be deemed guilty of a misdemeanor in office, and be liable to removal, and shall be proceeded against accordingly; if he loan or deposit said moneys or any part thereof contrary to the provisions of this section, or apply the same to his own use or the use of any other person in any manner whatsoever, or suffer the same to go out of his personal custody, except in payment of audited demands upon the Treasury, he shall be deemed guilty of a felony, and on conviction thereof shall suffer imprisonment in the State Prison for a period not less than three nor more than ten years.

SEC. 47. The Treasurer shall keep the money belonging to each fund separate and distinct, and shall, in no case, pay demands chargeable against one fund out of moneys belonging to another, except as otherwise provided in this Act, without an express ordinance of the Municipal Council, which can only be made during or after the end of the third quarter of the fiscal year, by a vote of two-thirds of each House. The said Treasurer shall give his personal attendance at his public office during the office hours fixed by this Act, and if he absent himself therefrom, except on account of sickness or urgent necessity, during such office hours, he shall lose his salary for the entire day on which he was absent.

## AUDITED DEMANDS.

SEC. 48. The term "audited," as used in this Act with reference to demands upon the Treasury, is to be understood as having been presented to and passed upon by every officer, Board of officers and Committee, and finally allowed, as required by law, and this must appear upon the face of the paper representing the demand, or else it is not audited. The term "law," or "laws," as used in this Act, is never to be understood as applicable to any regulation of the Board of Education, or of the Municipal Council, but only applicable to the Constitution and the laws made or adopted by the Legislature of the State in pursuance thereof.

SEC. 49. Every demand upon the Treasury, except the salary of the Auditor, and including the salary of the Treasurer, must, before it can be paid, be presented to the Auditor for such city and county to be allowed, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the Treasury of such city and county is authorized by law, and out of what fund. If he allow it, he shall indorse upon it the word "allowed," with the name of the fund out of which it is payable, with the date of such allowance, and sign his name thereto ; but the allowance or approval of the Auditor, or the Municipal Council, or either branch thereof, or any Board, Committee, or officer, of any demand which, upon the face of it, appears not to have been expressly made by law, payable out of the Treasury or fund to be charged therewith, shall afford no warrant to the Treasurer, or other disbursing officer, for paying the same. No demand can be approved, allowed, audited or paid, unless it specify each several item, date and value composing it, and refer to the law by title, date and section, authorizing the same.

SEC. 50. The demand of the Auditor for his monthly salary shall be audited and allowed by the Mayor. All other monthly demands on account of salaries fixed by law and made payable out of the Treasury of such city and county may be allowed by the Auditor without any previous approval. All demands payable out of the School Fund must, before they can be allowed by the Auditor or paid, be pre-

viously approved by the Board of Education, or by the President thereof, and Superintendent of Common Schools, acting under express authorization of said Board. Demands for teachers' wages, or other expenses appertaining to any school cannot be approved, allowed or audited to an amount exceeding the share of school money which such school will be entitled to have apportioned to it during the current fiscal year. Demands for monthly pay of Fire and Police Captains and officers must, before they can be allowed by the Auditor, or paid, first be approved by the Commissioners of Fire and Police. All other lawful demands payable out of the Treasury or any public funds of such city and county, and not hereinbefore in this section specified, must, before they can be allowed by the Auditor in any manner, or recognized, or paid, be first approved by the Board of Public Works, if the same be a demand arising in the Department, or under said Board, or any of its members; and if such demand has been incurred by the Commissioners of Subsistence and Supplies, then by said Board, and in all cases to be approved by the Board of Councillors; or, if the demand be under two hundred dollars, by the Mayor and two members of said Board, appointed by the Board for that purpose with power to act under and subject to its instructions and regulations during recess of the said Board. The Auditor must number and keep a record of all demands on the Treasury allowed by him, showing the number, date, amount and name of the original and present holder; on what account allowed, out of what fund payable, and, if previously approved, by what officer, officers or Board it has been so approved; and it shall be deemed a misdemeanor in office for the Auditor to deliver any demand with his allowance thereon until this requisite shall have been complied with.

SEC. 51. The Mayor, Mayor's Clerk, Auditor, Auditor's Clerk, Chief of Police, Police Commissioners, President of the Board of Education, all the members of the Board of Public Works and the Secretary of said Board, all the Commissioners of Subsistence and Supplies, each member of the Board of Councillors, and every other officer required by law or ordinance to allow, audit or certify

demands upon the Treasury, or to perform any other official act or function, shall have power to administer oaths and affirmations and take and hear testimony concerning any matter or thing relating to their official duties. Every officer who shall approve, allow or pay any demand on the Treasury not authorized by this Act, or by a valid ordinance of the Municipal Council passed in accordance with the same, or in case it is the act of a Board, who shall as a member thereof vote for the same, shall be liable to the city and county individually and on his official bond for the amount of the demand so illegally approved, allowed, or paid. Every citizen shall have the right to inspect the books of the Auditor, Treasurer, Board of Public Works, Commissioners of Subsistence and Supplies, and either branch of the Municipal Council, and every other Department or officer of such city and county, at any time during business hours. Copies or extracts from said books, duly certified, shall be given by the officer having the same in custody to any citizen demanding the same and paying or tendering sixteen cents per folio of one hundred words for such copies or extracts.

#### DUTIES OF THE AUDITOR.

SEC. 52. The Auditor shall be the head of the Finance Department of such city and county, and as such required to be constantly acquainted with the exact condition of the treasury and every lawful demand upon it. He shall keep a public office, and give his personal attendance there daily during the office hours fixed in this Act, and shall not be permitted to follow or engage in any other occupation or calling while he holds said office. If he absents himself from his office during such office hours, except on indispensable official business, or urgent necessity, he shall lose his salary for the day; and it shall be a part of his official duty to keep account of the times and occasions when he shall be so absent from duty. The Auditor shall have a seat in either branch of the Municipal Council, but without the right to vote. He may debate any measure of debt, expenditure or finance, and shall give information as to the exact condition of the treasury, and of every fund thereof, whenever requested by a member of either Board.

SEC. 53. Every lawful demand upon the treasury, duly audited as in this Act required, shall in all cases be paid on presentation and cancelled, and the proper entry thereof be made, if there be sufficient money in the treasury belonging to the fund out of which it is payable; but if there be not sufficient money belonging to said fund to pay such demand, then it shall be registered in a book to be kept by the Treasurer for that purpose, showing its number, when presented, date, amount, name of the original holder, and on what account allowed and out of what fund payable, and being so registered, shall be returned to the party presenting it, with an indorsement of the word "registered," dated and signed by the Treasurer.

SEC. 54. Whenever any audited demand has been presented to the Treasurer and not paid, and it be made known to the Mayor, he shall proceed immediately to investigate the cause of such non-payment, and if it be ascertained that the demand has been illegally and fraudulently approved or allowed, he shall cause the officer guilty of such illegal and fraudulent approval or allowance to be suspended and proceeded against for misconduct in office. If he ascertains that the demand has been duly audited, and that the Treasurer has funds applicable to the payment thereof, which, without reasonable grounds for doubt as to the legality of such payment, he refuses to apply thereto, he shall proceed against him as a defaulter. If it be ascertained that the demand was not paid for want of funds, then he shall cause the Tax Collector, or other officer, or person, or persons, who ought to have collected, or to have paid the money into the Treasury, if they have been grossly negligent therein, to be proceeded against according to law and without any delay.

#### LIMITATION OF CLAIMS BY LAPSE OF TIME.

SEC. 55. The salaries and compensation of all city and county officers, including policemen and employees of all classes and all teachers in Common Schools, and others employed at fixed wages, shall be payable monthly; and any demand whatsoever on the Treasury hereafter accruing shall not be paid, but shall be forever barred by limitation of

time unless the same be presented for payment, properly audited, within one month after such demand became due and payable; or if it be a demand which has to be passed and approved by the Board of Councillors, or Board of Education, then, within one month after the first regular meeting of the proper Board held next after the demand accrued; or unless the Municipal Council shall, within six months after the demand accrued as aforesaid on a careful examination of the facts, resolve that the same is in all respects just and legal, and that the presentation of it, as above required, was not in the power either of the original party interested, or his agent, or the present holder, in which case it shall be barred in the same manner, unless presented for payment within twenty days thereafter.

SEC. 56. The Treasurer, for all money received into the Treasury, and all other officers of such city and county receiving money from the Treasury for disbursement, shall give receipt for all moneys by them received, which receipt shall be presented to and countersigned by the Auditor. The Auditor, before countersigning any such receipt, shall number it and make an entry in a book of record to be kept in his office for that purpose, of the number, date and amount, by whom, and in whose favor given, and on what account. No such receipt shall be valid as evidence in favor of the person or officer receiving it till presented to the Auditor and countersigned as aforesaid; and any person or officer using or offering to use such receipt as evidence in favor of such person or officer of the payment specified in it without being first countersigned, as above required, shall forfeit to such city and county double the amount of money specified in such receipt.

#### APPEALS FROM THE DECISION OF THE AUDITOR.

SEC. 57. If any person feel aggrieved by the decision of the Auditor or other proper officer or officers of such city and county, except the Board of Education, in the rejection of, or refusal to approve or allow any demand upon the Treasury presented by such person, he may appeal and have the same passed upon by the Municipal Council, whose

decision thereon shall be final; and if the said Council shall approve and allow the demand, it shall afterwards be presented to the Auditor and entered in the proper book in like manner as other demands allowed by him, and an indorsement must be made of its having been so entered before it can be paid; *provided*, that from the decision of the President of the Board of Education and Superintendent of Common Schools, refusing or not agreeing to allow any demand payable out of the School Fund, the appeal shall be taken to the Board of Education, whose decision shall be final; and *provided further*, that nothing in this section shall be construed so as to render any demand a valid claim on the Treasury or any fund thereof, where the same was not originally a just and legal demand authorized by law.

SEC. 58. In all cases of such appeals to the Municipal Council or the Board of Education, the opinion of the City and County Attorney and of the District Attorney shall be severally required and obtained in writing, read and filed, and upon such appeal and in all other cases upon the approval or allowance of any demand upon the Treasury or School Fund, the vote shall be taken by "Yea's" and "Nay's" and entered upon the records.

#### THE EXAMINATION OF BOOKS AND COUNTING OF PUBLIC MONEY.

SEC. 59. The Mayor, in conjunction with the Auditor and the Chairman of the House of Delegates of such city and county, shall, every month, examine the books of the Treasurer and other officers of such city and county having the collection and custody of public funds, and shall be permitted, and it shall be their duty to see and count over all the moneys remaining in the hands of such Treasurer or other officer. The Finance Committee of each House shall also, twice a year, viz., on the first Monday in July and January, make the same examination of books, count said money, and report the result to the respective Houses. The failure to perform this duty for one month shall work a forfeiture of office in any officer herein required to do the same. If they ascertain clearly that such Treasurer or other

officer is a defaulter, they shall forthwith take possession of all funds, books and papers belonging to such office, and the Mayor shall appoint a person to fill the same until the said defaulting officer can be proceeded against according to law, which shall be done without delay. The person so appointed shall give bond and take the oath of office in the same manner as was required of the officer whose place he is appointed to fill. If the Treasurer or other officer so discharged as a defaulter be acquitted thereof, he shall resume his duties.

#### REGULATING DEMANDS UPON THE TREASURY EACH MONTH TO ONE-TWELFTH OF THE ANNUAL REVENUE.

SEC. 60. Neither the Municipal Council, the Board of Education, nor any other Board, Commission, Committee, officer or person, shall have power to authorize, allow, contract for, pay, or render payable, and they are prohibited from authorizing, allowing, contracting, paying, or rendering payable, in present or future, in any one month, any demand or demands, liability or liabilities, against the Treasury of such city and county, or the funds thereof, which shall, in the aggregate, exceed one-twelfth part of the amount allowed by laws existing at the time of such contract, authorization, allowance, payment, or liability, to be expended within the fiscal year of which said month is a part; *provided*, however, that if at the beginning of any month, any money remains unexpended in any of the funds set apart for maintaining the municipal government of such city and county, and which might lawfully have been expended the preceding month, such unexpended sum or sums may be carried forward and expended, by order of the Municipal Council, for the same purpose allowed by law in any succeeding month of the fiscal year. All contracts, authorizations, allowances, payments, and liabilities to pay, made, or attempted to be made, in violation of this section, shall be absolutely void, and shall never be the foundation or basis of a claim against the Treasury of such city and county; and all officers, Boards, and Commissions of said city and county, and all persons dealing with the same, are charged

with notice of the condition of said Treasury at all times, and the extent of the claims and demands against the same, and of the acts and proceedings of all other officers, Boards, Commissions and persons with respect thereto.

SEC. 61. It is the duty of the Mayor, the Superintendent of Public Streets and Highways, and the Surveyor, to keep an exact account of all street and sewer work upon accepted streets, as well as on all public buildings, and every other expenditure chargeable against the treasury in any of the Departments under charge of the Board of Public Works; and it is the duty of the Commissioners of Subsistence and Supplies, the Superintendent of Schools, the President of the Board of Education, the President of the Board of Fire and Police and Elections, and every other officer and Board having the power to contract any demand, or to aid in the contraction of any demand against said treasury, to keep an exact and full account of all purchases, expenditures and liabilities made or contracted in their respective Departments from day to day, and have the same at all times posted up in their respective offices for public notice, and they shall report the same at least once a week to the Auditor. Such account shall show every contract for street and sewer work, public buildings, purchases of material or supplies, or other expenditure, in whatever Department it is made, from its incipiency through the various stages of progress to completion, with the amount to be paid for the same, so far as it can be estimated, and when not, then a sworn estimate by the proper officer of the probable cost. When it is work ordered by the Board of Public Works, the estimate of the Board, certified by the Mayor, shall be taken. It is the duty of the Auditor to keep himself informed of the expenditures and demands as they progress, and he shall have the right to demand information of all officers whenever he shall desire it; and any officer refusing to inform him on reasonable demand, shall be guilty of a misdemeanor, and shall be deprived of his office. Whenever, at any time, the contracts performed or unperformed, claims due or to become due, exceed said one-twelfth part of the amount that can be lawfully expended out of any fund in the current fiscal year,

the President of the Board, Head of Department, or other officer or Board having the supervision of such expenditure, shall give notice thereof as to his or their Department, to the Auditor and the Treasurer, and shall post the same in his or their office, from which time no further contracts shall be made, or expenditures authorized or allowed, until such time has elapsed as will allow of further proceedings consistent with the provisions of the law.

SEC. 62. Any failure or neglect on the part of any officer or Board to comply with any of the provisions of this chapter shall render such officer and each member of such Board consenting thereto liable personally and upon his official bond to any contractor or other person suffering damage by said failure or neglect; but such contractor or person damaged shall have no remedy against such city and county, and the Auditor, Superintendent of Streets and Highways, President of the Board of Education or other officer authorizing or aiding to authorize, auditing or allowing any claim or demand upon or against said Treasury, or any fund thereof, in contravention of this law, shall be liable in person and on his official bond to the contractor or person damaged to the extent of his loss. The Treasurer paying any claim authorized, allowed or audited in contravention of the provisions of this law, shall be liable on his official bond to refund the same to the city and county, and it shall be the duty of the City and County Attorney to sue for the same.

SEC. 63. In case of any great public calamity or danger, such as earthquake, conflagration, pestilence, invasion, insurrection or other unforeseen emergency, the provisions of this Act may be temporarily suspended as to any lawful contract, authorization or expenditure necessary to avert, mitigate or relieve such evil; *provided*, that such expenditure, contract or authorization shall be passed by the unanimous vote of all the members of each branch of the Municipal Council, and entered in the Journals, and approved by the Mayor, Auditor and the Treasurer; and the character and fact of such emergency must be recited in the ordinance authorizing such action.

## NO APPROPRIATIONS TO PRIVATE BENEVOLENT SOCIETIES.

SEC. 64. All laws or ordinances making appropriations from the Treasury, or from any public source, to benevolent societies or other institutions, private or partially private, or not wholly under control of such city and county, shall terminate absolutely upon the organization of such city and county under this Act, and shall not afterwards be renewed.

SEC. 65. The Municipal Council of such city and county shall never, by ordinance, either directly or indirectly, create, authorize, provide for or pay any office, clerkship, place or employment of any nature or description under said city and county, or any Department, Board, Bureau or office thereof, except those specifically named, designated, authorized and provided for in this Act, or when authorized by law, and the term not specifically fixed by such law, which shall continue, extend, act or exist for a longer period than two years from the passage of the ordinance, regulation or rule creating, authorizing or providing for the same, nor for more than sixty days after the going out of office of the Council creating, authorizing, or providing for such new office, place, clerkship or employment; and all warrants, authorizations and demands for salary, pay or compensation of such officers, clerks or employees, shall, from the expiration of such time be absolutely void as claims upon the Treasury, and shall be no authority to the Treasurer for paying the same. All offices, clerkships, places and employments created, authorized or provided for after the first ordinance organizing the Departments of such city and county under this Act, shall be deemed to be new offices within the meaning of this section. All ordinances of the Municipal Council providing for new or additional clerks or employees under such city and county, or any Board or Department thereof, when authorized by any act not fixing the length of the time such office or place shall exist, shall expressly limit the duration thereof to the period prescribed herein. It shall be the duty of the Municipal Council, once in every two years, to make a general revision of all salaries of all officers, Commissioners, clerks, and employees in such city and county,

and to reduce them whenever the public good will be subserved; but no reduction shall ever take place during the term of any elective office, nor as to any appointed officer, except as to places that expire by limitation within that time, which may take place at such expiration.

SEC. 66. The Auditor must keep account of all moneys paid into and out of the Treasury, and it shall never be in the power of the Municipal Council, or any Board, Commission, or officer of such city and county to authorize or prescribe the payment of any money out of the Treasury upon any pretense whatever, except upon demands duly audited by the Auditor, and any Act of the Legislature or Municipal Council providing for the payment of money out of said Treasury or any Fund thereof, whether such money be public funds or private funds merely deposited therein, shall in all cases be construed, whatever the terms of such Act or ordinance, so as to render the audit and allowance of the Auditor to such claim or demand necessary before the same can be paid.

#### EXECUTIVE DEPARTMENT.

SEC. 67. The Mayor shall be the Chief Executive Officer; shall be at least thirty years of age ; a resident for five years in such city and county, and a freeholder for three. It shall be his duty vigilantly to observe the official conduct of all public officers of such city and county, and to take note of the fidelity and exactitude, or the want thereof, with which they execute their duties and obligations, especially in the collection, custody, administration and disbursement of the public funds and property, for which purpose the books, records and official papers of all Boards, officers and magistrates of such city and county, shall at all times be open to his inspection. He shall take especial care to see that the books and records of all such officers are kept in legal and proper form, and any official defalcation, or willful neglect of duty, or official misconduct which he may have discovered, or which shall have been reported to him, shall, at the earliest opportunity, be laid before the Municipal Council and before the Grand Jury, in order

that the public interests shall be protected and the officer in default be proceeded against according to law. He shall, from time to time, give the Municipal Council information relative to the state of such city and county, and shall recommend to their consideration such measures as he may deem expedient in the interests of the city. He shall take care that the laws of the State and the ordinances of the Municipal Council are enforced. He shall have power, and it is his duty to appoint a competent person, or persons, expert in matters of bookkeeping and account, to examine the books, records, condition and affairs of any department, or departments, Board, or officer, whenever he shall deem it necessary, and enforce such examination. Any officer refusing to submit to such official examination, or purposely delaying or impeding the same, may be suspended from office by the Mayor and removed by the Municipal Council.

SEC. 68. Whenever and so long as the Mayor, from any cause, is unable to perform his official duties, the Board of Councillors shall designate one of their number as Mayor *pro tempore*, who shall perform the same.

SEC. 69. The Mayor may, by due notice, call special sessions of the Municipal Council, and shall specially state to them, when assembled, the objects for which they have been convened, and their action shall be confined to such objects.

#### APPOINTMENT AND SUSPENSION OF OFFICERS.

SEC. 70. Any elected officer of said city and county may be suspended by the Mayor, and removed by the Board of Councillors for cause; and any appointed officer may be removed by the Mayor or Board of Councillors for cause. In either case the Mayor shall temporarily fill the vacancy, except when otherwise provided by law. Whenever the Mayor shall suspend any elected officer, he shall immediately notify the Council thereof, and the causes therefor, and shall call a session of said Councillors for said purpose if necessary. The Mayor shall present charges against said suspended officer to the Board of Councillors, and furnish a

copy of the same to said officer, who shall have the right to appear with a legal adviser before said Board for his defense. If a majority of the members elected to said Board by resolution sanction the action of the Mayor, then the suspended officer shall thereby be removed from office, and a new election shall be ordered to fill the vacancy; but if a majority disagree with the Mayor, then he shall be immediately reinstated.

SEC. 71. Whenever the Mayor shall remove any appointed officer from office, he shall in like manner notify the Councillors, and shall proceed to fill the vacancy. All officers appointed by the Mayor shall be subject to removal by the Board of Councillors, but if so removed the Mayor shall fill the vacancy, and the confirmation of the Councillors shall not be necessary.

SEC. 72. All officers appointed by the Mayor, when not otherwise expressly provided for, shall be subject to confirmation by the Board of Councillors, and if they refuse to confirm for ten days, he may appoint another, and continue doing so until the place is filled.

SEC. 73. The assistants and deputies of any officer or Department in the city government may be removed for cause by the Mayor, or by the officer under whom they work, at pleasure.

SEC. 74. All officers and employees of such city and county whose election is not otherwise specifically provided for in this Act, shall be appointed by the Mayor, with the advice and consent of the Board of Councillors.

#### COMMISSIONERS OF SUBSISTENCE AND SUPPLIES.

SEC. 75. Cities and counties of the first-class shall have a "Board of Subsistence and Supplies," to be composed of the Mayor, who shall be President thereof, the Sheriff and the Health Officer, which shall meet at least once a week, at the office of the Mayor. Said Board shall have a clerk who shall be executive officer thereof, with a salary not to exceed two hundred dollars per month. The books and records of the Board shall be open at all times to public

inspection. The Municipal Council shall have no power directly to contract for any goods, merchandise, stores, supplies, subsistence, printing, building, or other thing for such city and county, contracts for all of which, as well as for all subsistence, supplies, drugs, and all other necessary articles and things for hospitals, prisons, and public institutions, and other departments of such city and county, not otherwise specially provided for, must be made by said "Board of Subsistence and Supplies" with the lowest bidder offering adequate security, after due public notice, published for not less than five days in at least two newspapers in such city and county, one of which shall be the newspaper doing the city and county printing. All bids or proposals shall be opened and contracts awarded by the Board of Councillors, and the Commissioners of Subsistence and Supplies shall enter into a contract with the party to whom the same is awarded by the Board of Councillors, and shall exact and take bonds for the faithful performance of such contract as provided in section 76 of this Act. In advertising for all proposals to furnish supplies or other things, quantity and quality of all articles shall be fully stated, and any bidder may bid for any article named. The award to each article shall, in all cases, be made to the lowest bidder for such article. The Commissioners of Supplies shall furnish printed blanks. All bids shall be sealed and opened by the Board of Councillors, at an hour and place to be stated in the advertisement for proposals, in the presence of all bidders who may desire to attend, and the bidders may inspect the bids. All bids with alterations or erasures shall be rejected.

SEC. 76. All contracts for subsistence of prisoners must be given out annually by the Board of Councillors, at a fixed price per day, not to exceed twenty-five cents per diem for each person connected with the prison, and the advertisement for proposals to be published as aforesaid, by the Board of Subsistence and Supplies, shall specify each article that will be required, the quality thereof, the quantity for each person, and the existing and probable number of prisoners to be supplied. All articles of food supplied for

prisoners, hospitals, or other public institutions, must be of a sound and wholesome quality, and subject to the inspection and approval of the Keeper of the Prison, Physicians of the Hospitals, the Health Officer, and the members of the Board of Subsistence and Supplies, all of which must be expressed in the contract therefor to be entered into. Contracts shall be made with, and bonds taken from bidders by the Commissioners of Subsistence and Supplies, to secure the performance of the same in like manner, and with the same conditions and qualifications as prescribed for contracts by the Board of Public Works.

#### GENERAL PROVISIONS CONCERNING CONTRACTS.

SEC. 77. All city and county official advertising, including the Sheriff's office, the Board of Public Works, the Street Department, and Commissioners of Supplies, shall be in like manner let by the Board of Councillors to the lowest responsible bidder, publishing and proposing to advertise the same in a newspaper of general circulation in said city and county, and that has been in existence at the time of the letting of said contract at least three years; *and provided*, that any such newspaper may bid for the whole or any part of said advertising. The bids shall be opened by the Board of Councillors, and all bidders may be present thereat. No bid shall be considered in which there shall be any erasure or interlineation. All such contracts, when awarded, shall be entered into and bonds taken by the Commissioners of Subsistence and Supplies, and the work done to their satisfaction.

SEC. 78. All contracts relating to city and county affairs shall be in writing, signed and executed in the name of the city and county by the officer authorized to make the same; and in cases not otherwise directed by the law, such contracts shall be made and entered into by the Mayor, and in no case by either Board of the Municipal Council, or by any committee thereof. All contracts shall be countersigned by the Auditor, and registered by number and dates in his office, in a book to be kept by him for that purpose. In all cases of letting contracts to bidders, when for any reason a

contract fails of completion, the same proceedings shall be had *de novo*; new bids shall be invited, opened, and awarded, as provided in this Act in the first instance, until a sufficient contract is made and carried out. In all cases when the Board of Councillors have reason to think the prices too high, or that bidders have combined together to prevent genuine bidding, or for any reason that the public interests will be subserved, they may reject any and all bids, and cause the same to be re-advertised. The provisions of Section 86 of this Act as to bids and contracts shall be enforced by the Municipal Council, by appropriate ordinances, as to all bids, proposals, and contracts with such city and county, or any Department thereof.

SEC. 79. Any officer or commissioner of such city and county, or any officer or member of any House, Board, or Department of the Government thereof, who shall be, directly or indirectly, interested in, or a beneficiary, or participant of the profits of any contract made with or for such city and county, or any Board or Department thereof, or who shall participate in the profits made by any person or persons upon services, labor, purchases, sales, subsistence, supplies, materials, or any article or thing furnished to or done for such city and county, or any institution, public work, or branch or Department of the Government thereof, or sold by the same; which contract, profit, purchase, sale, or supply is made, or could have been made, influenced, or brought about through or by means of the official action or conduct of such officer, commissioner, or member of such Board, except the official salary or compensation of such officer, commissioner, or member of such Board or Department, provided expressly by law, shall be deemed guilty of a felony, and, on conviction by any Court of competent jurisdiction, punished accordingly. Any Commissioner, officer, clerk, or other person having custody of or access to any bids or proposals, whether sealed or otherwise, for supplying or furnishing any goods, provisions, subsistences, labor, material, printing, or other thing of any nature; or constructing, cleaning, repairing any work or thing; or doing or furnishing any thing whatsoever to such city and county, or

any Department, Board, Commissioner, or officer thereof, who shall open or examine into any one or more of such bids or proposals, or change, interline, alter, or otherwise tamper with the same; or shall purposely find out the contents thereof; or who shall aid, abet, assist, or permit another so to do, before or in advance of the time prescribed by law for the opening thereof, or any lawful postponement of such time, shall be deemed guilty of a felony, and, on conviction by any Court of competent jurisdiction, shall be punished accordingly.

SEC. 80. The Mayor shall see that all contracts and agreements with the city are faithfully kept and performed, and to this end he shall cause legal proceedings to be instituted and prosecuted against all persons or corporations failing to fulfill their agreements. And it is the duty of any and every city officer, when it shall come to his knowledge that any contract with the city relating to the business of any office whatever, has been or is about to be violated by the other contracting party, forthwith to report the fact to the Mayor. A failure to do so shall be a sufficient cause for the removal of any officer of any Department. The Mayor shall give a certificate, on demand, to any officer giving such information that he has done so, which certificate shall be evidence in exoneration from a charge of neglect of such duty. The City and County Attorney shall prosecute all suits so ordered by the Mayor.

SEC. 81. All questions of differences between the officers of such city and county as to the relative duties, may be referred by either of them to the Mayor, who shall examine and determine such questions, and his decision shall be final as between such officers.

#### PUBLIC WORKS.

SEC. 82. Cities and counties of the first-class shall have a Board of Public Works, which shall be composed of the Mayor, who shall be *ex officio* President thereof, the City and County Surveyor, and the Superintendent of Public Streets, Highways and Squares.

SEC. 83. The Secretary of the Board of Councillors shall

be *ex officio* Secretary to the Board of Public Works, but without additional salary. He shall give such bond as the Municipal Council may prescribe, and may have an assistant at a salary not to exceed one hundred and fifty dollars a month. He shall keep the records of said Board, shall perform all the necessary duties of Secretary, and such other duties as the Board or Municipal Council may prescribe.

SEC. 84. The Board of Public Works shall have an office at the City Hall, and shall meet at least once in each week at its office, to consider, take under advisement, and act upon such business as may lawfully come before it. Said Board shall furnish to the Municipal Council, or either branch thereof, such data and information as may be required by such Council or branch, or which it may deem necessary to impart. A majority of said Board shall form a quorum for the transaction of business; but no final action shall be taken in any matter concerning the special Department of any absent member of the Board, unless such member has had due notice that such matter would be acted upon at such meeting or unless it is made the special order of the day.

SEC. 85. All public work and improvements of such city and county, except upon the Parks, must be done by or under the supervision and control and to the satisfaction of the Board of Public Works.

SEC. 86. Neither the Municipal Council nor the Board of Public Works shall have power alone to contract for any public work, material, improvement, repairs, or other thing, nor to fix or agree upon the price or rate thereof; but the Board of Public Works shall in all such cases (except necessary repairs made in cases of urgent necessity first agreed to and authorized by the Board of Councillors) prepare and submit estimates of cost and expense of any proposed work, or other thing coming within their department, to the Municipal Council; and when such work, expenditures, or other thing shall have been authorized by legal ordinance, or regulation, the Board of Public Works shall advertise for bids for the same in the manner and subject to the conditions provided for purchases by the Commissioners of Sup-

plies. All such bids shall be opened and the contracts awarded by the Board of Councillors to the lowest responsible bidder, and when so awarded, the Board of Public Works shall enter into and supervise such contract. All bids shall be made upon printed forms, to be prepared and furnished gratuitously, upon application, by the Board of Public Works, with the affidavit, hereinafter provided for, printed in blank thereon. Each bid shall have the affidavit of the bidder thereon duly verified, upon the oath of the bidder, that such bid is genuine, and not collusive or sham; that he has not colluded, conspired, connived, or agreed, directly or indirectly, with any other bidder or person, to put in a sham bid, or that such other person shall refrain from bidding, or in any manner sought, by collusion with others, to secure any advantage against the city and county, or any department thereof with which the contract is sought, for himself, or for any other person whomsoever. Making a false affidavit to a bid shall be deemed, and, on conviction, punished as perjury. It shall be unlawful for any two or more persons to enter into any agreement or collusive arrangement whereby a sham bid shall be put in, or whereby such persons, or any one or more of them, shall desist or refrain from bidding upon any particular contract, with the understanding that one or more of those bidding shall then, or at any other time, desist or refrain from bidding upon any other contract then or thereafter to be offered, or expected to be offered for biddings. Any person violating the foregoing provision shall be deemed guilty of felony, and, on conviction, punished accordingly; and any contract made in violation of it shall be absolutely void, and never form the basis of a claim against the Treasury of such city and county, or any fund thereof. Any other mode of letting out work, or procuring materials or other thing, shall be held to be illegal and void. Every bidder for anything done for or supplied to such city and county, the Board of Public Works, Commissioners of Supplies, or any other department or officer thereof, shall file with the bid a certified check on some solvent bank, in such city and county, for such sum as the Board of Works,

Commissioners of Supplies, or Municipal Council shall prescribe, which sum shall be forfeited to the city and county, and drawn by the proper officer and paid into the Treasury, if the bidder for any reason fail or refuse to comply with and perform his bid, in case the contract is awarded to him. Any bid without such check shall not be considered. The Board of Public Works and all other Boards and officers entering into contracts shall exact sufficient bonds with sureties for the faithful performance of all such contracts. All bonds shall be given to the city and county by name. No surety on any bond shall be taken unless he shall be a payer of taxes on property the assessed value of which is equal in amount to his liabilities on all bonds on which he may be security to such city and county.

#### DEPARTMENT OF STREETS, HIGHWAYS, AND SQUARES.

SEC. 87. The Superintendent of Public Streets, Highways, and Squares, shall keep a public office, in some convenient place, to be designated by the Municipal Council. His office shall be kept open as in this Act provided. He shall not, during his continuance in office, follow any other profession or calling, but shall be required to devote himself exclusively to the duties of his said office. He shall, in addition to his duties as a member of the Board of Public Works, have under his special charge the construction, reconstruction, repairing, and cleaning of the public streets, highways, alleys, places, and squares, excepting the parks. He shall superintend and direct the cleaning of all sewers in the public streets.

SEC. 88. It shall be the duty of said Superintendent of Public Streets, Highways, and Squares, to see that the laws, orders, and regulations relative to the public streets and highways are carried into execution, and that the penalties therefor are rigidly enforced as may be prescribed by the Municipal Council. He shall keep himself informed of the condition of all public streets, highways, sewers, and squares. He shall, before entering upon the duties of his office, give bonds in such sums as may be fixed by the Council, for the faithful discharge of the duties of his office, and should he

fail to see that the laws, ordinances, and regulations relating to the public streets, highways, squares, and sewers, are carried into execution, after notice from any citizen of a violation thereof, such Superintendent and his sureties shall be liable upon his official bond to any person injured in person or property by such official neglect.

#### DEPARTMENT OF SEWERS AND DRAINAGE.

SEC. 89. The City and County Surveyor shall have under his special charge the drainage of said city and county, and the construction, reconstruction, and repairing of all public sewers, manholes, sinks, drains, cesspools, and other appurtenances belonging to the drainage system. He shall be Engineer-in-Chief of such city and county, and of the sewerage system ; shall make all necessary plans, surveys, maps, and drawings, and other necessary things, and keep the same in his office; and all such maps, plans, machinery, and drawings shall be the property of such city and county, and remain in the office, and be transferred by the outgoing to the incoming officer. He shall do all necessary surveying and engineering for the streets, alleys, highways, squares, and parks, at the request of said Departments, or either of them, and all and any other surveying and engineer work that such city and county, or any of its Departments, may require.

#### DEPARTMENT OF PUBLIC BUILDINGS AND REPAIRS.

SEC. 90. The Mayor, as President of the Board of Public Works, shall preside at the meetings of the Board, and, in addition, shall have special charge of all public buildings in construction or completed, and all other public works not specially placed in charge of the other members of said Board. He shall also have a general supervision over the departments of the other members of the Board of Public Works, and see that their duties are properly performed, as well as every other Branch, Department, and Institution, of such city and county.

SEC. 91. All public buildings in course of construction,

or repair, at the time of the reorganization of such city and county under this Act, and all public buildings thereafter authorized to be constructed, or repaired, shall at once vest in the control of the Board of Public Works, and especially in the department of the Mayor. Said Board shall be clothed with all the powers to continue the works, when authorized so to do by ordinance of the Municipal Council, that before were in the city and county authorities, and may by the Municipal Council be empowered to construct the same, and proceed with said work, subject to all the duties and liabilities, and according to the provisions of this Act, and especially of Section 86 thereof.

SEC. 92. Upon taking control of such building or other work in his department, it shall be the duty of the Mayor to at once discharge or reduce the compensation of all employees engaged therein, except laborers and mechanics, to such a point that the expenses of the supervision, architectural planning, and drafting, and clerical department of said work shall not cost in any one year more than six per cent. of the amount expended in labor and materials. And it shall be the duty of the Board of Works and the Municipal Council and the Auditor, and each of them severally, to see that not over six per cent. of the cost of what shall actually be expended and go into such building or works, in any one year, in the shape of labor and materials, shall be paid for architects, overseers, clerks, draftsmen, and similar matters, and when more than such six per cent. is so expended, it shall be sufficient cause of removal from office of the officer permitting or allowing the same, and he shall be liable, personally and on his official bond, for the same; and it shall be the duty of the City and County Attorney to bring an action against such officer for restitution of the excess to the City and County Treasury.

SEC. 93. The Municipal Council shall provide, by ordinance, such additional duties of, and requirements from, the Board of Public Works and its several members as it may deem necessary, but no emoluments, salary, or compensation beyond the official salary allowed said members by law shall ever, under any pretense, be paid to said Board or any

of its members, nor to any other Board, Commissioner, or officer of such city and county beyond his regular official salary.

#### STREET IMPROVEMENTS.

SEC. 94. The streets, lanes, alleys, places, and courts, dedicated, or open to public use in such city and county, and the width and grade thereof, as officially established by virtue of any law, or ordinance, at the time of its organization under this Act, shall be, and remain, after such organization until lawfully changed by the Municipal Council, open public streets, lanes, alleys, places, and courts, with such width and grade for the purpose of construction, or re-construction, opening, grading, sewerizing, repairing, or paving, or other street, or drainage improvement, and the Municipal Council, upon the recommendation of the Board of Public Works, and not otherwise, shall have jurisdiction to order work done therein, as conferred upon them by this Act. And where such work is a lawful charge upon the City and County Treasury, to order the same paid therefrom, but not to exceed the annual expenditure in any one year for such purpose in this Act specially provided; and in cases where such improvement is made upon streets, alleys, places, courts, and highways that have not been accepted as herein provided so as to become a charge upon the city and county, such Municipal Council shall have power, authority, and jurisdiction to provide, by ordinance or regulation, for levying, assessing and collecting upon the property and real estate fronting upon or adjacent thereto, a special tax sufficient to pay for such improvement.

SEC. 95. The initiatory proceedings for all such work shall commence in the Board of Public Works. No ordinances for the construction or re-construction, grading, sewerizing, paving, improvement, repair, or other street or drainage work upon any square, highway, street, lane, alley, court or place shall be passed or have effect unless first recommended by the Board of Public Works.

SEC. 96. The Municipal Council shall, by ordinance, establish a general plan for opening, improving, constructing, reconstructing, grading, sewerizing, paving, repairing

and keeping in repair streets, avenues, lanes, alleys, places, highways, courts, sewers and other necessary street and drainage work to be recommended by the Board of Public Works, and performed by said Board when done at the expense of such city and county, and by contract, or by the owners of the property, when done at the expense of the property owners, but in all cases under the supervision of, and to the satisfaction of said Board of Public Works. Such ordinance shall provide all necessary notices, advertisements, checks, and conditions for the prevention of fraud, to secure honest work, and for the protection of property owners, contractors, and the public; and said Municipal Council is vested with full power to enact rules that will secure such results. No assessment for street or drainage work shall ever be valid unless the contractor and person performing such work, and the assignee, if there be one, each attach thereto his affidavit that no private or special contract, agreement, or understanding, direct or implied, has been made with any person or persons whose property is assessed, or charged in such assessment, whereby such person or persons is to have any abatement, rebate, reduction, benefit, or advantage over any other person or persons whose property is so assessed, or charged, but that all of such persons are to pay equally in proportion to their frontage or other liability, according to law. Any false swearing in such affidavit shall be deemed perjury, and shall subject the offender, on conviction, to punishment accordingly.

SEC. 97. Such ordinance shall provide for ordering by said Municipal Council, on the recommendation of the Board of Public Works, the whole, or any portion of such avenues, lanes, streets, alleys, places, or courts, graded or regraded to the official grade, planked or replanked, paved or repaved, macadamized or remacadamized, piled or re-piled, capped or recapped, or to order sidewalks, sewers, cesspools, manholes, culverts, curbing, and cross-walks, to be constructed, and to order any other work to be done which shall be necessary to make and complete the whole, or any portion of said streets, avenues, lanes, alleys, places, or courts, and the drainage and cleaning thereof, and for

the ordering, on the recommendation aforesaid, of any of said work to be improved. All contracts for street and sewer work and repairs, and all labor and materials, and other things of every nature and description therefor, whether payable by such city and county, or by a special tax on private lots, or property, shall be subject, as to advertising, bidding, opening of bids, awarding of contracts, entering into and performing the same, and in all other respects, to the provisions of Sections 85 and 86 of this Act.

SEC. 98. The Board of Public Works shall have jurisdiction to recommend any of the work aforesaid, after notice of their intention to do so, in the form of a resolution describing the work, and signed by the Secretary of said Board, has been published for the period of ten days in the newspaper designated by the Municipal Council for such publications, and such other publication as said ordinance may prescribe.

SEC. 99. Such ordinance shall also provide for a petition to said Board on the part of the owners, or their duly accredited agents, of more than one-half in frontage of lots and lands fronting on any street, lane, alley, place, or court, to order any such work to be done; but no work shall be done after petition, except upon the approval of the Board of Public Works. Within ten days after publication of notice by the Board of Public Works of intention to recommend any street work or improvement, (except sewerage,) chargeable to private lots or property, the owners of more than one-half in frontage of the property chargeable with the expense of such work or improvement may file a protest against such improvement with such Board, from which time no further steps shall be taken for one year, nor then, if such protest be renewed from year to year, so long as it is so renewed. It shall be unlawful for the owner or agent of any lot or property, liable to be charged or assessed to pay the expenses of any street work or improvement, or other person, to make or have, directly or indirectly, any contract, engagement, or understanding, express or implied, with any contractor or other person, or any pledge, promise, or private bargain to withdraw or

refrain from any opposition or protest to such work upon the understanding or with the expectation of having any reduction, rebate, or advantage over any other lot owner affected by such assessment or intended assessment. And any person making such private bargain, contract, agreement, promise, or understanding in violation of this provision shall be deemed guilty of a felony, and, on conviction, punished accordingly. Every protest against street work shall be made on printed forms, which shall be supplied gratuitously by the Board of Public Works, upon which the foregoing provision shall be printed in clear type.

SEC. 100. The cost of, or expenses incurred, by opening, grading, sewer ing, sidewalk ing, constructing, repairing, and keeping in repair, and other street work of all unaccepted streets, lanes, alleys, courts, and places, shall be assessed upon the lots and lands fronting thereon, each lot, or portion of lot, being separately assessed in proportion to its frontage, at a rate per front foot sufficient to cover the total expense of the work. Ordinances may be passed providing for a personal notice to the owners of lots liable to be assessed for repairs, to do the same forthwith, and if the same shall not be done within a reasonable time, to provide penalties for disobedience. But no such personal notice requiring property owners to construct or repair shall be necessary to give jurisdiction to the Board of Public Works to recommend, or the Council to order such work to be done.

SEC. 101. The expense, where chargeable to private lots, of work done on or about all irregular property, or on crossings, and in front of or about angular or irregular terminations, blocks, or corners, or in or about small or irregular streets, lanes, alleys, courts, or places, or crossings, or their terminations in other small or irregular streets, lanes, alleys, courts, or places, shall be assessed upon the property in the neighborhood of the block where benefited, though not actually fronting thereon; such assessment to be authorized by a regular system to be provided in such ordinance, which shall in all cases be general and not special.

SEC. 102. All street work or improvements done in front of or adjacent to or in the neighborhood of private prop-

erty, is deemed to be beneficial thereto, and the expense thereof shall be charged as a tax upon such property, according to its frontage, except when the city and county has accepted the same, and become liable therefor, according to the provisions of Section 104 of this Act.

SEC. 103. No public work, or improvement of any description whatsoever, shall be done or made, in such city and county, in, upon, or about the streets, lanes, alleys, courts, or places thereof, or otherwise, the cost and expense of which is made chargeable or may be assessed upon private property by special assessment, unless an estimate of such cost and expense is made by the Board of Public Works, before or at the time of recommending the same to the Municipal Council, which estimate shall accompany such recommendation. And before such work or improvement shall be commenced, or any contract for letting or doing the same is authorized, an assessment in proportion to benefits on the property to be affected shall be, by the Board, collected and paid into the Treasury; and the Municipal Council shall provide, in said ordinance, for the enforcement of this section, and for the levying of such assessment, its collection, and payment into the Treasury, and the speedy performance of the work, by contract, under the supervision and to the satisfaction of the Board of Public Works, after such money is so collected and paid in. No street or drainage work, or improvement to be paid for by special tax upon private lots or property, shall ever be authorized where the amount to be assessed to, or charged against, any private lot or property shall exceed fifty per cent. of the taxable value of such property, as shown on the books of the Assessor of such city and county, for the fiscal year preceding the same, and any assessment or other proceedings made in violation of this provision shall be void.

SEC. 104. When any street, or portion of a street, has been, or shall hereafter be, constructed with stone or iron pavement, and stone curbs, and otherwise and in all respects to the satisfaction of the Board of Public Works, and shall have a brick sewer or iron-stone pipe constructed therein, under such regulations as the Municipal

Council shall adopt, or which, before the adoption of this charter, has been legally accepted by the proper authorities of such city and county, the same shall be accepted by said Council, and thereafter shall be kept open and improved by the said city and county, the expense thereof, together with all work done in front of city property, to be paid out of the Street Department Fund; *provided*, that the Municipal Council shall not accept any portion of the street less than the entire width of the roadway (including the curbing, and one block in length, or one entire crossing); and *provided further*, that the Municipal Council may partially or conditionally accept any street, or portion of a street, without a sewer or pipe therein, as above stated, if a sewer or pipe therein shall be deemed by the Board of Public Works, confirmed by the Council, as unnecessary; but the lots of land previously assessable for the cost of construction of a sewer or pipe shall still remain and be assessable for such cost, and for the cost of repair and restoration of the street damaged in the said construction, when a sewer or pipe shall be deemed necessary, the same as if no partial or conditional acceptance have ever been had. The Superintendent of Public Streets, Highways, and Squares shall keep in his office a register of all accepted streets, whether accepted before the organization of such city and county under this Act, or afterwards, the same to be indexed, so that reference may be easily had thereto; and all such streets, so accepted, shall be kept in repair at the expense of said city and county.

SEC. 105. No recourse shall be had against such city and county for damage to person or property suffered or sustained by reason of the defective condition of any street or public highway of such city and county, whether originally existing or occasioned by construction, excavation, or embankment, or want of repair of said street or public highway, or by falling from or upon the same; but if any person, while carefully using any street or public highway of such city and county, graded or in course of being graded, or carefully using any other street or public highway leading into or crossing the same, be injured, killed, lost, or destroyed,

or any horses, animals, or other property be lost, injured, or destroyed, through any defect in said street or public highway, graded or in course of being graded as aforesaid, or by reason of any excavation or embankment in or of the same, or by falling from or upon such embankment or excavation, the person or persons upon whom the law may impose the duty either to repair such defect or to guard the public from the excavation, embankment, or grading aforesaid, and also the officer or officers through whose official neglect such defect remained unrepaired, or said excavation or embankment remained unguarded as aforesaid, shall be jointly and severally liable to the person or persons injured for the damages sustained.

SEC. 106. The City and County Surveyor shall be the proper officer to do the surveying and other work which may be necessary to be done in and about all street work of every nature and description, and to survey, measure, and estimate the work for the Board of Public Works in advance of recommending the same to the Council; and also under all contracts for grading streets, and for every other purpose not otherwise provided for under this Act or the ordinances passed in pursuance thereof; and every certificate of work done given by him, signed in his official character, shall be *prima facie* evidence in all Courts in this State of the truth of its contracts. He shall keep a record of all surveys made under the provisions of this Act, or such ordinances.

#### PARKS.

SEC. 107. There shall be a Board of Park Commissioners, consisting of three citizens and freeholders of said city and county, appointed by the Mayor, with the consent of the Board of Councillors, who shall hold office for four years, and who shall receive no compensation for their services. Said Board shall have full and exclusive control and management of all the parks of such city and county which at the time of the organization of such city and county under this Act were treated and improved as public parks, with the avenues and great highways connected therewith. Two of said Commissioners shall constitute a quorum to do busi-

ness, but no money shall be expended or contract entered into authorizing the expenditure of money, without the approval of the Mayor and a majority of said Board. In case of a vacancy, the same shall be filled by the remaining members of said Board for the residue of the term so vacant.

SEC. 108. Said Board shall have power to govern, manage, and direct said parks and avenues leading thereto as have heretofore been operated or managed in connection therewith; to lay out, regulate, and improve such parks and avenues, to pass ordinances for the regulation and government of the same; to appoint one general Superintendent, who shall perform the duties of overseer and managing gardener, who shall receive as salary not to exceed two hundred dollars a month. The City Surveyor shall be *ex-officio* Engineer of the works, and shall perform such engineering work as the Commissioners may require of him. Prisoners sentenced to hard labor in any of the jails, prisons, houses of correction, work houses, or other penal establishments of said city and county, may be put to work upon the parks. The Commissioners may employ such other laborers as shall be necessary, within the amount allowed by law to be expended on said parks, at wages not to exceed the current wages paid in such city and county for labor, and no others. They shall in no year incur any debt or deficit, nor expend any money beyond the amount realized by the tax herein provided for. All persons violating any of the ordinances of the Commissioners regulating the parks, shall be deemed guilty of misdemeanor and punished accordingly on conviction in the Police Court.

SEC. 109. The Municipal Council shall have the power to levy and collect, in the mode prescribed by law for the levy and collection of taxes, by law each year upon all property in such city and county, the sum of one and one-half cents upon each one hundred dollars valuation of taxable property therein, for the purpose of preserving and improving the parks and avenues under control and management of said Commissioners. Said money shall be paid into the Treasury, and paid out for said purpose, all claims to be first allowed by said Commissioners and audited by the

Auditor. The jurisdiction of the Park Commissioners shall not extend to unimproved parks, nor squares and places not hitherto treated as parks, unless extended thereto by an ordinance of the Municipal Council. The Commissioners may lease, for terms not to exceed three years, any portion of said grounds not immediately required for improvement, the proceeds to go to the improvement of the parks and avenues.

SEC. 110. The Park Commissioners shall make semi-annual reports to the Mayor and Municipal Council of all their proceedings, and a detailed statement of all the receipts and expenditures.

#### BOARD OF EQUALIZATION.

SEC. 111. The Mayor and the Board of Councillors shall constitute a Board of Equalization for such city and county, and as such shall have the powers conferred by the general laws regulating the assessment and collection of taxes, when not inconsistent with the provisions of this Act.

SEC. 112. It shall be the duty of the Auditor, the Superintendent of Common Schools, the City and County Attorney, the Superintendent of Public Streets and Highways, the City and County Surveyor, the President of the Board of Fire and Police and Election Commissioners, and the President of the Park Commissioners, of such city and county, to report to the Mayor and the Municipal Council, on the first Monday in February of each year, the condition of their respective Departments, embracing all their operations and expenditures during the preceding year, and recommending such improvements in them as they may deem necessary. The Mayor shall also make an annual report to the Council of the condition of his Department, and of the city and county. The Auditor shall also report to the Mayor and Municipal Council, at the end of each quarter, and must also publish, at the same time, a statement of the exact condition of the finances of said city and county, which must show the receipts into and disbursements made from the Treasury during the preceding quarter, the amount of money on hand, and the amount of audited demands out-

standing. Immediately after the first Monday in February the Mayor and Municipal Council shall make up and publish an extract from these several reports and other sources of the operations, expenditures, and condition of all departments of government of such city and county.

#### DEPARTMENT OF FIRE, AND POLICE, AND ELECTIONS.

SEC. 113. The Mayor, by and with the advice and consent of the Board of Councillors, shall appoint three citizens of such city and county, householders of good repute, without respect to polities, with the qualifications necessary for members of the Board of Councillors, who shall be the Commissioners of Fire, Police, and Elections of such city and county. Each of said Commissioners shall hold office for two years, unless sooner removed by resolution of the Board of Councillors, in which case the Mayor shall appoint a successor to the Commissioner or Commissioners so removed, for the unexpired term; and the approval of the Board of Councillors to such appointment shall not be necessary.

SEC. 114. Said Commissioners shall organize themselves into two Boards—one to be called the Board of Fire and Police Commissioners, and the other to be called the Board of Election Commissioners. They shall elect from their number a President of each of said Boards, and may appoint a Secretary to the Board of Fire and Police Commissioners, with a salary not to exceed two hundred dollars a month, who shall keep a record of their proceedings and perform such other duties as the Commissioners shall require.

SEC. 115. The Registrar of Voters of such city and county shall be *ex officio* Secretary of the Board of Election Commissioners. The President of the Board of Fire and Police Commissioners shall have a salary not to exceed four thousand dollars a year, and the other two Commissioners shall have a salary not to exceed three thousand dollars a year each, to be paid in like manner with other official salaries in such city and county; and they shall have no other compensation. Neither the President nor any member of either of said Boards shall be eligible to any other office in

this State except such Commissionership during his incumbency of the office of Fire, Police, and Election Commissioner, nor for one year thereafter. No member of said Boards shall, during his term of office, be a member of any party convention the purpose of which is to nominate candidates for office, nor shall any officer or member of either of said Departments be a judge, inspector, clerk, or officer of any election or primary election, or take any part therein except to deposit his vote. Nor shall the officers, members, or employees of the Fire, Police, or Election Department, or any of them, take any part whatever in any partisan or political convention; nor shall any member of said Boards, directly or indirectly, control or influence, or attempt to control or influence, the action of any officer, member, or employee of said Department in any primary or general election; nor shall any officer or member collect or pay any political assessment or contribution for political purposes. Any violation of the provisions of this section shall be deemed a misdemeanor, and further, shall vacate the office or employment of the offender, and he shall no longer exercise the same, or afterwards be eligible thereto.

SEC. 116. The Fire and Police Department of such city and county shall be operated under the control and management of said Board of Fire and Police Commissioners, subject to the provisions of this Act, and such ordinances and regulations as the Municipal Council shall enact in accordance therewith, and with the laws of this State; and all elections by the people shall, in like manner, be conducted and managed by said Board of Election Commissioners.

SEC. 117. The Board of Fire and Police Commissioners, composed as aforesaid, shall appoint, regulate, and, when there is good and sufficient cause, remove all officers, members and employees of the Fire and Police force of such city and county. The Chief Engineer and the Chief of Police may be removed at the pleasure of the Commissioners. The Fire and Police force shall be operated as separate and distinct departments under said Board; but the Municipal Council may, in their discretion, provide, in the ordinance

organizing said forces, or otherwise, and by proper rules and regulations, for the members of the Fire Department to perform Police duties when not otherwise engaged, and for the members of the Police force to aid in the extinguishment of fires. Enginemen who are employed as policemen shall be deemed to be such, and may receive not to exceed the pay of regular Police officers; and nothing herein contained shall be construed to permit of an increase of the Police force beyond the number allowed in this Act. A suitable portion of the regular Police force may be detailed as a Harbor Police, or for other necessary duties, as the Board of Fire and Police Commissioners may by regulation provide.

SEC. 118. There shall be a Chief of Police, whose salary shall not exceed four thousand dollars a year, whose powers and duties shall be prescribed by the Commissioners of Fire and Police. There may be four Captains, or Detectives, with salary not to exceed one hundred and fifty dollars a month each, and six Police Sergeants, or inferior officers, with salaries not to exceed one hundred dollars a month each, and not more than two hundred and forty members of the Police force, whose compensation shall not exceed eighty dollars a month each. Any Act in force at the time of the organization of such city and county under this Act, providing for a life insurance for Police or Firemen, may be re-enacted, with such modifications as the Municipal Council may adopt by ordinance, and made to apply to both forces. No reduction of the Police force or Firemen shall be made by removal to conform to this Act, but no vacancies shall be filled, or new appointments made, until the force shall be reduced to the number provided in this Act, or such number as the Council may provide under its terms.

SEC. 119. The Fire and Police Commissioners shall have in charge the Fire Alarm and Police Telegraph, Corporation Yard, and all other appurtenances and accessories of said Department, and appoint, regulate, and control the employees thereof in like manner with other employees of said Departments. The Telegraph Department shall have not more than three operators, with salaries not to exceed one

hundred and twenty-five dollars per month for the Chief, and ninety dollars each for the Assistants.

SEC. 120. There shall be a Chief Engineer of the Fire Department, with a salary not to exceed two hundred dollars a month; four Assistant Engineers, with salaries not to exceed one hundred dollars a month each; one Superintendent of Steam Fire Engines, at a salary of not more than one hundred dollars a month; one Assistant Superintendent of Steam Fire Engines, at not more than ninety dollars a month; one Clerk and Store-keeper for the Corporation Yard; one Corporation Yard Drayman; one Night Watchman; two Hydrant men, at not more than seventy-five dollars a month each; a Veterinary Surgeon, at not more than fifty dollars a month; one Engineer for each steamer, at not more than eighty-five dollars a month; one Driver for each engine and hose carriage, at not more than seventy dollars a month; one Fireman for each steamer, at not more than fifty dollars a month. No other employee of the Fire Department shall receive over thirty dollars a month, except those who are required to give their whole time to the service, in which case they may be paid not to exceed seventy-five dollars a month each.

SEC. 121. All apparatus, machinery, property, articles and things necessary for the Fire Department shall be purchased by the Commissioners of Subsistence and Supplies of such city and county, in the manner and subject to the conditions provided for other purchases by said Commissioners.

SEC. 122. The Commissioners of Fire, Police and Elections shall have power to make all necessary rules and regulations for the appointment, management, control, operation, trial, and dismissal, for cause, of the Fire and Police forces of such city and county, to compel obedience thereto, and to change such rules at pleasure.

SEC. 123. No officer or member of the Fire or Police force of such city and county, the Commissioners of Fire and Police, and the Chief of Police and Chief Engineer excepted, shall be removed, except for misconduct, to be tried as determined by the Commissioners, upon due notice to and hearing of the party accused.

SEC. 124. In cases of public emergency the Fire and Police forces shall be under the control of the Mayor, who may, when the public safety requires, appoint extra and additional members thereof, during the emergency only, but without compensation, and it shall be the duty of all able-bodied citizens to act as special police, without compensation, when required so to do by the Mayor, during such emergency.

SEC. 125. The City and County Attorney shall give legal advice and services to the Commissioners of Fire and Police and Elections, when required so to do, as part of his official duties.

SEC. 126. The entire expenditure of the Fire Department, including salaries of officers and men, corporation yard, and alarm and fire telegraph, shall not exceed dollars, in any one fiscal year, and the Municipal Council shall have control of and shall limit the expenditures of said Department in its discretion by regulation or ordinance.

SEC. 127. The entire expenditure of the Police Department shall not exceed the sum of dollars in any one year.

SEC. 128. All expenditures of money by the Fire and Police and Election Commissioners, shall be subject to the approval of the Municipal Council, and to be audited and approved, as all other claims are allowed and audited, before they can be paid out of the Treasury.

SEC. 129. All police officers, and members of the Police Force of such city and county, shall be deemed public peace officers, and shall be vested with all the powers of arrest and detention, and other constabulary authority vested in the police officers thereof, under laws existing at the time of the re-organization of such city and county under this Act.

#### POWERS AND DUTIES OF ELECTION COMMISSIONERS AND CONTROL OF ELECTIONS.

SEC. 130. The conduct, management, and control of elections, and matters pertaining to elections in such city and county, shall be vested in the Board of Election Commissioners, which Board shall have and exercise all the powers

and shall be charged with all the duties as to elections and matters pertaining to elections, vested by general laws in Supervisors of counties, and the Registrar of voters hereafter provided for, shall be *ex-officio* Secretary of the Board, and shall give advice and information to said Board when required by them so to do.

#### ELECTION PRECINCTS FORMED.

SEC. 131. The Board of Election Commissioners shall, as soon after each general election as convenient (not to exceed ninety days), divide such city and county into election precincts, of which there shall be so many as shall be sufficient to make the number of votes polled at any one election precinct to be not more than three hundred nor less than two hundred, as near as can be ascertained.

SEC. 132. There shall be a "Registrar of Voters" for such city and county, to be appointed by the Mayor, with the advice of the Board of Councillors, from among the citizens of said city and county. His salary shall not exceed thirty-six hundred dollars per annum, payable out of the Treasury of said city and county as other salaries are paid, and he shall be allowed a deputy, who shall receive a salary not to exceed one hundred and fifty dollars per month, payable in the same manner, and such other clerical assistance as shall be found necessary to the discharge of the duties of said office, to be allowed and authorized by the Board of Election Commissioners of said city and county. He shall have a suitable office provided for him by said Board, and such allowance for stationery, printing, and incidental expenses, as shall prove necessary, not to exceed

dollars in any one year. He shall give an official bond in the sum of ten thousand dollars, with two sureties to be approved by the Auditor and Treasurer, conditioned for the faithful performance of his duties.

#### POWERS AND DUTIES OF REGISTRAR.

SEC. 133. The Registrar of Voters, when appointed and qualified, shall be clothed with all the powers, discharge all the duties, and be liable to all the obligations and official

consequences belonging to, discharged by, or resting upon the County Clerk of counties with respect to the registration of voters, and other matters pertaining to elections in such city and county under the provisions of the Political Code of this State, so far as the same are not annulled by this Act. The County Clerk of such city and county shall not be charged with any registration or election duties, and the same shall rest upon and be discharged by the Registrar.

SEC. 134. Said Registrar shall keep his office open for business every day in the year (Sundays and legal holidays excepted) from nine o'clock A. M. till five o'clock P. M. He shall have the power to administer oaths to election officers and all other persons in the discharge of his duty. The Registrar, as well as his clerks and deputies, and the Election Commissioners, shall have power to administer oaths and affirmations in all matters touching the duties of their offices and the registration of voters, or inquiry into their qualifications.

SEC. 135. The Registrar shall constantly inform himself, by examination and inquiry, as to the condition of the Precinct Registers, and the legality of the names therein or demanding to be placed thereon; and shall see that none but legal voters are registered. Should the Registrar have reason to believe that any name or names upon the Precinct Register is improperly or illegally there, it shall be his duty forthwith to send a written or printed notice, by postal card or otherwise, to such person, directing the same to his address as found in the Directory, or, in case his name is not in the Directory, then the address of such person opposite the name on the Register on the last preceding election at which such name was voted, requiring such person to show cause before the Board of Election Commissioners why said Commissioners shall not cancel said name. If such person fail for five days to appear and establish the legallity of such name on the day fixed for the hearing, and on the certificate of the Registrar that notice and publication in accordance herewith has been made, the Board shall inquire into the case, and, if it appears to the satisfaction of the Board that such name is improperly upon the Precinct Register, then said

Board shall make and enter an order directing the Registrar to cancel such name or names. But the parties may appear before said Board at the hearing and show cause against said order; and if the Board finds them properly registered, or entitled to registry, an order shall be made accordingly, which shall be final. The Board may designate any one of the Commissioners to hear and determine such matters.

SEC. 136. The Registrar shall keep in his office a list of all deaths occurring in such city and county, of adult males, as well as of the deaths of such citizens as may come to his knowledge who may die elsewhere, to be alphabetically arranged for convenience of reference. Also, all removals or changes of residence, so far as he can learn the same, and commitments to prisons and insane asylums, with time and place, as well as such other information as shall be found useful and within his reach. It shall be the duty of all Clerks of Courts, Prison-keepers, Health Officers, and all other public officers and others, on demand, to furnish to said Registrar certified statements of such official facts, within their knowledge, necessary for him to obtain, necessary or useful information in and about his said duty.

SEC. 137. The Registrar of Voters, under and subject to the rules of the Board, must take charge of the business of placing the election officers, and at the last moment, when it is too late to call the Board together to fill vacancies, may select and appoint election officers for said purpose. Should any election officer fail to appear at the opening of any election, or at any time during the progress thereof, the officers in attendance may, subject to such rules as the Board of Commissioners shall provide, fill up the same by appointing any competent citizen. Any person refusing to serve, when so appointed, shall be liable to all the pains and penalties of section 143 of this Act.

SEC. 138. The counting of votes or ballots, and all proceedings connected therewith, shall be in public, and citizens shall have free ingress and egress to and from the place where the same is being done. Any election officer, or other person, who shall hinder or impede any citizen in his right to free entrance to the polling place, and to observe

and watch the counting of votes or ballots, shall be deemed guilty of a misdemeanor, and, on conviction, punished accordingly.

SEC. 139. It is hereby made the duty of any and all voters in such city and county (persons holding office or employment under the United States, the State of California, or such city and county, or any of its departments, excepted), to serve as Judges, Inspectors, and Clerks, or other officers of election, whenever required to do so under the provisions of this Act.

SEC. 140. It shall be the duty of the Registrar to obtain from the property tax list and registers of voters of such city and county the names of the resident citizens of said city and county, possessing the necessary qualifications to act as Judges, Inspectors, and Clerks of Election, taking care to select persons of good reputation and character, and have the same placed in a book, so as readily to refer to the places of residence and the precinct in which they vote. He shall take care that said list shows the names and residences of all property tax payers who reside in said city and county, and who are voters, and shall ascertain, as nearly as he can, the capabilities of such voters to act as election officers. If any of them are incompetent to serve by reason of infirmity, and not otherwise, their names may be left off, but the reason must be noted.

#### POWER OF COMMISSIONERS.

SEC. 141. Said Board of Election Commissioners shall, on the recommendation of the Registrar, select all election officers provided for by law for such city and county, and shall appoint them to their respective places. They shall have the power to make any regulations and rules for the appointment or selections they may deem advisable, so as to secure integrity, impartiality and capacity for the work to be done; and if the list furnished them by the Registrar does not contain a sufficiency of names of respectable and fit persons for election officers, they must take measures to secure the names of proper persons, citizens and voters of such city and county, and to fill up all appointments as here-

inafter provided; *provided*, that in selecting election officers the Commissioners shall take care to select, as nearly as possible, an equal number of persons of opposite political faith and opinions to serve at each precinct.

SEC. 142. Each election officer under this Act shall be entitled to receive for his services the sum of two dollars per day while actually engaged in said work of receiving and counting votes, to be paid out of the treasury of said city and county in the manner provided by law for the payment of such service, and no more; *provided*, that said Board of Commissioners may, in their discretion, raise the compensation of clerks for tallying, writing, and other matters requiring special skill and qualifications, to such sum as they shall find necessary to secure such service, but not to exceed four dollars per day; *provided*, that such increased compensation shall, under no circumstances, be allowed to any Judge or Inspector; and, *provided further*, that no person holding any office or employment under the United States, the State of California, or such city and county, or any of its departments, nor any candidate for office, or who shall have been either thereof within ninety days, shall be eligible to or allowed to serve as an election or registration officer, clerk, or in any manner whatsoever at an election; *provided*, that the members of the Precinct Registration Boards shall receive for their services while acting upon the Precinct Registers, the sum of ten dollars each in full for such service, and no more.

SEC. 143. Each and every person selected by the Board of Election Commissioners shall be notified by the Registrar of Voters of the fact of his appointment. Such notice shall be in writing, or printed, and shall have printed thereon a copy of this section, and may be served by postal card or otherwise. Such person so notified shall appear within the time fixed in the notice, but which shall not be less than five days, before the Registrar, and at least one of the Commissioners, for the purpose of examination, and if found qualified shall, unless excused by said Commissioners, by reason of ill health, or other good and sufficient cause, be bound to serve as such officer for the

term of one year from the date of his appointment, unless previously excused or dismissed by the Board; and in case of neglect, or refusal to comply with the above mentioned requirements, or to serve, or act, shall be liable to a penalty of five hundred dollars, recoverable by civil action in any Court of competent jurisdiction, in the name of said city and county, and when collected, shall be paid into the treasury, for the benefit of the Election Fund. And a failure on the part of any such person to present himself for examination, and to comply with any of the requirements of this Act preliminary to receiving his certificate of appointment within the time prescribed, or to attend on the day of any registration, or revision, or examination of registration, or the day of any election during said term, unless prevented by sickness, or other sufficient cause (the burden of proof of which shall be upon the delinquent), shall be deemed a refusal within the meaning of this section.

SEC. 144. The registration of electors in such city and county shall be done by election or voting precincts. The provisions of the Political Code requiring the keeping of a Great Register, and Ward Registers shall not be applicable to such city and county. The provisions of said Code as to making and keeping the Great Register, and the manner of entering names therein, and the substance and contents of said entries, and the alterations, changes, and cancellation thereof, as well as the proceedings and proof to enable voters to be registered in said Great Register, and all matters relating thereto, so far as the same are not in conflict or inconsistent with the provisions of this Act, shall be applicable to the Precinct Registers of such city and county. And said Precinct Registers shall be used at all elections, and no person shall vote at any election except he be legally registered upon the Precinct Register of the precinct in which he is a qualified voter and where he offers to vote.

SEC. 145. The registration of electors in the Precinct Registers in such city and county shall take place previous to each general election, as herein provided, and an elector properly enrolled therein, without being again enrolled, may, if he has not changed his residence, vote at the general elec-

tion ensuing his registration, and at all special elections between said general election and the next general election, but not afterwards until re-registered according to law.

SEC. 146. In addition to the matters required by section one thousand and ninety-six of the Political Code to be entered in the Register, the Precinct Registers in such city and county shall particularize the place of residence of each elector registered, by specifying the name of the street, avenue, or other location of the dwelling of such elector, with the name or number of such dwelling, if the same has a name or number, and, if not, then with such description of the place that it can be readily ascertained and identified. If the elector be not the proprietor, or head of the house, then it must show that fact, and upon what floor thereof, and what room such elector occupies in such house; all of which facts are to be ascertained from such elector in the manner required by law for proving the qualification of electors to entitle them to be registered. Any person making a false oath with respect to residence, or any other fact lawfully demanded of him, as provided for in this Act, shall be deemed guilty of perjury, and, on conviction, punished accordingly.

SEC. 147. A sufficient quantity of blanks for Precinct Registers for all the precincts of said city and county shall be prepared and kept by said Registrar of Voters, at his office, so that voters may be registered, upon application and proper proof, according to law. Ninety days before each general election, the Registrar shall commence the registration of all voters entitled thereto, as provided in section 149 of this Act, who apply with the proper proof, and no others. Such voters shall be registered in the Precinct Registers, for the precinct where they are entitled to vote, and not otherwise. Such registration shall continue at the office of the Registrar until the Precinct Registers are turned over to the Board of Precinct Registration, as is hereinafter provided for, when it shall cease at said office. Such registration shall be made subject to the rules herein provided for the Board of Precinct Registration.

SEC. 148. There shall be a Board of Precinct Registrars

tion in each precinct in such city and county, which shall be constituted in the following manner: The Board of Election Commissioners, as soon as is practicable after they shall have divided the city and county into election precincts, as hereinbefore provided for, shall proceed in the manner provided in section 142 of this Act, to appoint the one original Inspector and the two original Judges of Election provided for in section one thousand one hundred and forty-two of the Political Code, for each precinct. Said Inspector and Judges shall serve for one year, unless otherwise ordered by the Commission, and, in addition to acting as election officers at all the elections during the year, shall serve as Precinct Registering Officers for enrolling the electors of their respective precincts on the Precinct Registers thereof. All other election officers shall be appointed by the Board of Election Commissioners, at such time as shall be necessary before the election.

SEC. 149. Said Boards of Precinct Registration shall meet in the places provided in their respective precincts for such purpose by the Registrar of Voters, commencing five days (not counting Sundays or legal holidays) before the day fixed by this Act for the cessation of the registration of electors in said city and county, and shall sit in open session from nine o'clock A. M. until ten o'clock P. M. of each day, until the day of such cessation (Sundays and legal holidays excepted), to receive and act upon applications for registration on the part of the voters of said precinct. They shall organize by electing one of their number Chairman. They shall receive the applications for registration of such male residents of their several election precincts as then are, or on the day of election next following the day of making such application would be, entitled to vote therein, and who shall personally present themselves, with proper evidence of their rights, and such only.

SEC. 150. It shall be the duty of the Registrar of Voters to provide suitable places in each precinct for the sessions of the Board of Precinct Registration. He shall also furnish them with blanks, stationery, and all other matters and things necessary to enable them to conveniently and speedily

perform the duties devolving upon them under this Act. He shall also give such Boards his assistance and advice in organizing and conducting the registration of voters, and other matters required of them by law, and shall visit said Boards while engaged in said duty, and see that said proceedings are conducted according to law, and the registers made in due form. He shall be allowed free access to the precinct registers at all times, and within such reasonable limits as the Board of Election Commissioners shall prescribe, the public shall have access thereto in like manner. The members of the Boards of Precinct Registration shall have power to administer oaths and affirmations, as shall all election officers, and to take testimony in the discharge of their duties.

SEC. 151. As soon as the Boards of Precinct Registration shall have commenced their sittings for registration in the several precincts, as herein provided for, registration at the office of the Registrar shall cease, and the precinct registers shall be delivered by the Registrar to said respective Boards, who shall go on with the registration of voters at the places provided by law for them in their respective precincts until the time provided by law for registration to cease, when all registration shall stop, except in the cases especially provided for in section 158 of this Act. It shall be the duty of the Board of Precinct Registration, in addition to their other duties, to carefully examine and revise the names of voters upon their several Precinct Registers, as delivered to them by the Registrar, and to ascertain if such names are the names of legal voters, properly on said precinct register and entitled to vote in said precinct.

SEC. 152. The Boards of Precinct Registration shall keep the several precinct registers for such time as shall be necessary, not to exceed three days after the time for registration ceases according to law, during which time they shall hear and determine applications for registration in the excepted cases provided for in Section 157 of this Act. They shall also make diligent examination and inquiry during said period as to the right of the respective voters who have been registered on said Precinct Register to such registra-

tion, and shall in all doubtful cases certify their doubts, with the reason thereof, to the Board of Election Commissioners for further action. All persons who have been refused registration by the Registrar, or by the Precinct Board, can appeal to the Board of Election Commissioners, who shall hear and determine the same in a summary manner, so as not to delay the completion of the registers.

SEC. 153. When the Board of Precinct Registration have completed the examination and inquiry provided for in the preceding section, they shall certify the Precinct Register, as is hereinafter provided, and deliver the same to the Registrar of Voters. Said delivery shall be made not later than three full days after the cessation of registration, as provided by law. They shall at the same time prepare and duly certify a separate and distinct list, showing the names of all persons concerning whose right to registration they are in doubt, together with the grounds and reasons for such doubt. Such list and certificate shall be delivered to the Registrar at the same time with the Precinct Register. Proper blanks shall be prepared and furnished by the Registrar for the purpose of making the return of doubtful names on the registers, and also blank certificates and all other necessary things for said purpose.

SEC. 154. The certificate to be attached to the Precinct Register shall be substantially in the following form, to wit: "We, the undersigned, Inspectors and Judges of Election forming the Board of Precinct Registration for the..... Precinct of the ..... Ward, of the city and county of ....., do jointly and severally certify that on the ..... day of ....., 18.., we met and organized as such Board, at the place appointed by law for the holding thereof in said precinct. That the Precinct Register was delivered to us by ....., Esquire, Registrar of Voters for said city and county, containing at the time of its delivery to us the names of (stating number) voters. That we have examined and inquired into said list to the best of our ability, and have noted all doubtful registration thereon. We also certify that we sat as a Board of Precinct Registration at said place, ....., from the .....

day of . . . . . , till the . . . . . day of . . . . . , 18. , and have admitted to registration (showing number) citizens, whose names and other matters of qualification will appear upon the foregoing register, and that the whole number of qualified voters upon said register is (number).

" Dated, . . . . . , . . . . . , 18 .

" (Signed): \_\_\_\_\_

" (Signed): \_\_\_\_\_

" (Signed): \_\_\_\_\_"

#### FORM OF CERTIFICATES OF DOUBTFUL NAMES.

SEC. 155. The certificate to be annexed to the list of doubtful names shall be substantially in the following form, to wit: "We, the undersigned, composing the Board of Precinct Registration for the . . . . . Precinct of the . . . . . Ward, of the city and county of . . . . . , hereby certify that the accompanying list shows all the names and other matters of qualification of voters upon the Precinct Register for said precinct, about whose right to registration we entertain a reasonable doubt, together with a statement of the cause or grounds for such doubts.

" Dated, . . . . . , . . . . . , 18..

" (Signed): \_\_\_\_\_

" (Signed): \_\_\_\_\_

" (Signed): \_\_\_\_\_"

SEC. 156. It shall be the duty of the Registrar to forthwith notify all persons certified as doubtful, of said fact, and to cite them before the Board of Election Commissioners, as provided in section 135 of this Act in cases where the Registrar has reason to believe persons have been improperly registered, and the same proceedings shall be had as to citation and cancellation as provided for in said section.

SEC. 157. Fifteen days before a general election all registration or enrollment of voters shall cease, and the Precinct Registers, as they stand, shall be the Precinct Registers for said ensuing election, and until the next general election, subject only to changes in the following cases:

I. All that for any reason are illegally on the Precinct Registers, shall be cancelled.

II. Any name that has been once lawfully on the Precinct Register, so as to entitle the person to vote at said ensuing election, and which has been by fraud, mistake, or otherwise improperly removed or cancelled, may be restored, on proper evidence thereof.

III. Any legal voter who applied in time for enrollment on a Precinct Register, and through any fault or neglect of the Registrar, or Board of Precinct Registration, or for want of time on the last day, he having duly applied and produced the necessary and legal proof of his right on said day, has his name left off, may have the same put on afterward, on showing that he applied in time, and that it was through no fault or neglect of his own that it was left off.

Any voter entitled to have his name upon the Precinct Register under the terms of either of the two preceding subdivisions, and no others, may have the same placed upon the Supplementary Register provided for in the next section, within five days from the time herein provided for the cessation of enrollment on the Precinct Register. Any person who does not so apply within said time shall not be enrolled on the Precinct Register of said election; *provided*, that nothing in this section shall be deemed to prevent any lawful changes, additions, and supplements to said Precinct Registers after the general election and prior to any special election thereafter to be made under the regulations fixed by the Board of Election Commissioners, and to be used at other than general elections.

SEC. 158. As soon as the Registrar shall receive the Precinct Register from any Board of Precinct Registration, he shall proceed with the greatest diligence to cause said Precinct Register to be printed; and the same shall be printed, and copies of them posted in his office for public inspection, within three days. He shall also proceed, by means of clerks and other assistants, to be provided by the Board of Election Commissioners, to ascertain, by inquiry and examination, the correctness of said Precinct Registers, and to cancel all names not legally thereon; and shall prepare a supplemental list for each precinct, showing the cancellations and additions to the regular list made after the publi-

cation of the same, which supplemental list shall be printed and posted in like manner, five days before the election, after which no changes shall be made; *provided*, that all cancellations and additions to the Registers made by the Registrar, shall be subject to the approval of the Board of Election Commissioners.

SEC. 159. Not less than ten days before the day for the sitting of the Boards of Precinct Registration, the Registrar shall cause an advertisement to be printed, for ten consecutive days, in the newspaper doing the city printing, giving notice to the voters of said city and county that the time for the enrollment of voters on the Precinct Registers will expire on a certain day, naming the day fixed in this Act for the last day of registration, and inviting them to present themselves for registration at the place of the meeting of said Boards, which shall be named, within the time, under penalty of being debarred the privilege of voting at such election. Such notice shall specify the day upon which the precinct registration by the Board of Precinct Registration shall commence, and also the day upon which it is to end.

SEC. 160. Any elector who has been legally registered in the Precinct Register, provided he has not changed his residence, or otherwise lost his right to vote in his precinct, shall not be required to renew such registration until the making up, as herein provided, of the Precinct Register for the next ensuing general election, after the election for which such registration was made, but may vote in such precinct at any election taking place before such general election. The Precinct Registers shall be printed in sufficient numbers to allow for their being used at all the elections likely to occur before the next general election after the one for which the registration is made, and all necessary changes, or additional names, shall be noted upon the Register for each special election thereafter, or added into supplements thereto, conformatory, so far as the same is applicable, to the provisions of the law governing the making of the general election Register. The Board of Election Commissioners are empowered to make rules governing such supplemental registration for special elections.

SEC. 161. The Registrar of Voters shall procure rooms, or places, both for the sitting of the Board of Precinct Registration as well as for polling places, subject to the approval of the Board of Election Commissioners, both as to location and cost. He shall advertise for offers of rooms and polling places, and shall accept the lowest bid when conveniently located. All contracts for printing, stationery, and other matters and things for election purposes, shall be given out by the Board of Election Commissioners after advertisement by the Registrar for bids, and subject, so far as applicable, to the provisions governing purchases by the Commissioners of Subsistence and Supplies. In printing, the Board can take bids for the whole or any part of the work; and any engrossing, lithographic, electro-pen writing, or other process whereby the Registers can be made legible and to the satisfaction of the Registrar, shall be deemed a sufficient compliance with the law as to printing. All contracts shall be entered into by the Registrar and performed to the satisfaction of the Registrar and Board.

SEC. 162. All provisions for carrying out the registration and election laws in such city and county, shall be made by the Board of Election Commissioners, and demands on the Treasury authorized or allowed by them for such purposes shall be lawful, but must be audited by the Auditor, who must satisfy himself of their legality and correctness before they can be paid.

SEC. 163. All the provisions of the Political Code touching the registration and qualification of voters, and the method of calling, holding, and conducting elections in force in such city and county, shall continue in force therein, so far as they are not inconsistent with the provisions hereof, until repealed or modified.

#### “PIECE CLUBS” PROHIBITED.

SEC. 164. It shall be unlawful for any committee, club, convention, or other association, formed, or acting as such, for the purpose of nominating a candidate, or candidates, for office in such city and county, to levy, assess, collect, demand, or receive, directly or indirectly, any money, or

other valuable thing, from any candidate or candidates coming before such body for a nomination, or who shall be nominated by them for office, upon any pretence whatsoever. Any officer, or member of any such convention, committee, club, or association, or other person, who shall vote for, and authorize, assist, or consent to any such demand, levy assessment or collection, or any candidate or person who shall pay the same, shall be deemed guilty of a misdemeanor, and, on conviction in any Court of competent jurisdiction, punished accordingly.

SEC. 165. All payments and contributions of money for election expenses made by candidates for office in such city and county, shall be assessed and made by such candidates by voluntary assessment among themselves at meetings of all the candidates of the party to be called for such purpose, and at which meetings none but such candidates for office at the next ensuing election shall be present or participate. Any person being a candidate for office in such city and county who shall directly or indirectly pay, or cause to be paid, any money or valuable thing to any person, as an assessment or contribution for the expenses of the election at which such person or candidate is to be voted for, except the assessment or contribution so agreed upon by such meeting of candidates, and any person who shall ask for, demand, collect, or receive any such money, or other valuable thing, either as principal or agent for another, shall be deemed guilty of a misdemeanor, and, on conviction, punished accordingly.

#### LEGAL DEPARTMENT.—THE CITY AND COUNTY ATTORNEY.

SEC. 166. There shall be elected by the qualified voters of such city and county one Attorney and Counselor learned in the law, who shall hold his office for two years, and until his successor shall be duly elected and qualified, and shall be paid a salary of five thousand dollars a year, payable monthly, out of the General Fund. Said City and County Attorney shall prosecute and defend all suits and actions at law and in equity, and conduct all legal proceedings in the

Courts and elsewhere, necessary to preserve and protect the city's rights. He shall give legal advice to the City Government, and all the Officers, Boards, and Departments thereof, when required so to do, and perform such other duties as such Attorney and Counselor as the Municipal Council shall from time to time prescribe. It shall be the duty of the Mayor, the Sheriff, the County Clerk, the Superintendent of Streets and Highways, the Surveyor, the Assessor, the Tax Collector, the President of the Park Commissioners, and every Head of Department, Officer, and Board of Officers, or Commissioners, in such city and county government, having the appointment or control of any deputy or deputies, clerk or clerks, assistants, laborers, janitor, supernumerary, or other employee or attache of any description, whose salary or pay comes, or is expected to come, from the City Treasury, or any fund thereof, to make quarterly, on the first day of January, April, July, and October, written reports, verified under oath, to the City and County Attorney, showing the name of every such person in his office, or department, the amount of his monthly salary or pay, when appointed, how much he has drawn within the preceding quarter, out of what fund, and specifically under what law, ordinance, authority, or pretence of authority, such person has been employed, or paid. A neglect to furnish such report shall be deemed a misdemeanor in office, and a willfully false report shall be deemed and punished as perjury. It shall be the duty of the City and County Attorney to examine said reports as they are presented to him, and to inquire into the law or authority by which such payments have been made, and if he finds that any person has been employed or paid without warrant of law, or legal authority, he shall immediately institute suit against the Auditor, on his official bond, for allowing or auditing the same; and if the same has been paid without his allowance, then like suit against the Treasurer or other officer who has made such unlawful payment, for the recovery of the money so paid, and its restoration to the Treasury. The City and County Attorney shall likewise proceed against any officer failing or refusing to make such quarterly report, or making

a false report, and is charged with the duty of enforcing this law, and shall be suspended or removed from office if he fails therein. The City and County Attorney may be suspended or superseded by the Municipal Council for negligence, incapacity, or other good cause, whereupon the Mayor may appoint a competent person to discharge the duties of said office.

SEC. 167. The City and County Attorney shall keep in his office well bound books of registry, in which shall be entered and kept a register of all actions, suits and proceedings in which the city is interested. Each outgoing Attorney shall deliver such books and all other records, law reports, quarterly reports from Municipal Boards and officers, documents, statutes, papers, furniture, and property in his possession to his successor in office, who shall give him duplicate receipts therefor, one to be filed in the office of the Auditor and one to be retained by the outgoing Attorney. There shall be two clerks in the office of said City and County Attorney, both of whom shall be members of the bar, one of whom shall receive not more than one hundred and fifty dollars a month, and the other not to exceed one hundred dollars a month, payable out of the General Fund.

#### PUBLIC ADMINISTRATOR.

SEC. 168. The Public Administrator of such city and county shall be appointed by the presiding Judge of the Superior Court of such city and county, and confirmed by a majority of the Judges thereof. He shall be an officer of said Court, and subject to its orders. He shall hold office during the pleasure of said Court, and upon retiring shall turn over all estates, business, property, and assets of estates, and records of office, to his successor. All fees, commissions and emoluments allowed by law to the Public Administrator in the administration of the estates of deceased persons, shall be, by him, collected and paid, each month, into the Treasury of such city and county, and an account thereof rendered to the Auditor. The Public Administrator shall be allowed, in full for all services, an annual salary not to exceed three thousand dollars in lieu of all commissions and

emoluments, said salary to be paid as other salaries are paid. He shall give an official bond, to be fixed by the Municipal Council, and shall give additional and special bonds in each case as prescribed by law or by said Court, and shall in all other respects conform to the laws regulating Public Administrators in this State.

#### THE COUNTY CLERK.

SEC. 169. The County Clerk of such city and county shall keep open his office and all offices attached to the various Courts of which he is the clerk, within said city and county, for the transaction of business, every day in the year, except Sunday, New Year's Day, Twenty-second of February, Fourth of July, Thanksgiving, Christmas Day, from eight o'clock in the forenoon to the hour of five o'clock in the afternoon.

SEC. 170. He shall take charge of and safely keep, or dispose of, according to law, all books, papers, and records which are or may be filed or deposited in his office, and of all the Courts of which he is clerk; and he shall not allow any papers, files, or records to leave his custody, except when required by the Judges of the Courts, to be used by them, or any of them.

SEC. 171. No Judge, or officer of any Court, shall make any order for the delivery by the County Clerk of said city and county, of any papers, files, or records in his custody; nor shall the Courts or Judges thereof have any power to make orders for the delivery of any certificate of incorporation, bonds, or other papers filed with the said County Clerk. When any of said papers are required for evidence in any of the courts within said city and county, the County Clerk, or his deputies, shall produce the same, under subpœna, or order of the Court, or furnish certified copies of the same, on application, on payment to said Clerk for said copy, at the rate of ten cents per folio for each hundred words, which shall be paid into the City and County Treasury by him.

SEC. 172. Neither the County Clerk nor any of his deputies shall be required to attend as witnesses, in their of-

ficial capacities, outside of such city and county, unless his expenses be paid, at the rate of ten cents per mile to and from the place he may be required, and five dollars a day for each day's attendance.

SEC. 173. The County Clerk of such city and county may appoint not to exceed twenty-nine deputies, as shall be determined by the Municipal Council, whose salaries, respectively, shall not exceed one hundred and fifty dollars a month each, to be paid out of the General Fund. A sufficient number of such deputies shall be assigned by him as court-room clerks, to the various Courts of which he is the official clerk, while such Courts are in session, and to do duty in the office when such Courts are not in session. He shall transfer said deputies to duty in Court, or at his office, as the exigency of the service may require, so as to efficiently perform the work in the most economical manner possible.

SEC. 174. The Municipal Council may, by ordinance passed by a vote of three-fourths of all the members elect to each branch thereof, permit the appointment of additional clerks when necessary, not to exceed ten, at a like salary.

#### JUSTICES' COURTS IN CITIES AND COUNTIES OF THE FIRST CLASS.

SEC. 175. There shall be in and for such city and county one Justices' Court, which shall have the powers and jurisdiction prescribed and conferred by law upon Justices of the Peace and Justices' Courts in such city and county. All actions, suits, and proceedings whereof Justices of the Peace and Justices' Courts in such city and county have jurisdiction shall be commenced, entitled, and prosecuted in said Court. The said Court shall be always open, non-judicial days excepted, and causes therein may be tried before the Presiding Justice, before any one of the Justices before whom the original process may be made returnable, or to whom the cause may be assigned or transferred for trial, or before all the Justices constituting the Court in bank, as hereinafter provided; but the Court in bank shall have exclusive power to hear and determine all applications for new trials. In case of sickness, or other disability, or

necessary absence of a Justice of the Peace (on the return of a summons, or at the time appointed for trial) to whom a cause has been assigned, the Presiding Justice shall re-assign the cause to some other Justice, who shall proceed with the trial and disposition of said cause in the same manner as if originally assigned to him. For the organization of said Court, Justices of the Peace and a Justices' Clerk shall be respectively elected and appointed, and the Sheriff of such city and county *ex-officio* shall be an officer of said Court, as hereinafter provided.

SEC. 176. There shall be, for such city and county, three Justices of the Peace, to be elected by the qualified voters of the city and county at large, at the time, in the manner, and for the term as prescribed by law for the election of the Mayor. Such Justices shall hold office for two years, and until their successors are elected and qualified.

SEC. 177. The Mayor, with the consent of the Board of Councillors, shall biennially appoint one of the Justices of the Peace to be Presiding Justice, who, as such, shall hold office for two years, and until his successor shall, in the same manner, be appointed; and any one of the other Justices may attend, preside, and act as Presiding Justice during the temporary absence or disability of the Justice so appointed. The Mayor shall also appoint a Justices' Clerk, on the written nomination and recommendation of said Justices, or a majority of them, who shall hold office during the pleasure of the appointing power. The Clerk shall take the constitutional oath of office, and give bond, with at least two sufficient sureties, to be approved in the same manner as the official bond of other officers of such city and county, in the sum of ten thousand dollars, payable to the city and county, conditioned for the faithful discharge of the duties of his office, and well and truly to account for and pay into the Treasury of said city and county, as required by law, all moneys by him collected or received, and by law designated for that use. A new or additional bond may be required by the Mayor, Auditor, and Treasurer, or any two of them, whenever they deem it necessary, and on failure to furnish such new and additional bond within three days after it

shall be required, the office shall become vacant. The Justices' Clerk shall have authority to administer oaths, and take and certify affidavits, in any action, suit, or proceeding in said Justices' Court, and to appoint a Deputy Clerk, for whose acts he shall be responsible on his official bond; the said Deputy Clerk to hold office during the pleasure of said Clerk.

SEC. 178. The Municipal Council shall provide in some convenient locality in such city and county, suitable rooms for the Clerk's office, court-room, and rooms for offices or chambers for the Justices of the Peace, for the transaction of their official business, and shall also provide suitable furniture therefor. At the Clerk's office, the presiding Justice and Justices' Clerk shall be in attendance daily, non-judicial days excepted, from the hour of nine A. M. until five P. M., and at such other convenient hours as may be required by urgent official business; and the other Justices, aforesaid, shall be in attendance at their respective offices and chambers, for the dispatch of official business, daily, from the hour of nine A. M. until five P. M. Unless otherwise ordered by the Municipal Council, leave of temporary absence may be granted by the Mayor to the Clerk or any of the Justices, when such absence will not materially prejudice or delay official business; but absence for more than two hours in a day, or for more than four days in one month, shall be charged with a proportionate deduction of salary.

SEC. 179. All legal process, of every kind, which the Justices of the Peace of such city and county, or any of them, are, or may be, authorized to issue, for issuance or service of which any fee is or may be allowed by law, shall be issued by the said Clerk upon the order of the presiding Justice, or upon the order of one of the said Justices of the Peace, except as hereinafter provided; and the fees for issuance or service of all such process, and all other fees which are allowed by law for any official services of Justices, Sheriff, or Justices' Clerk, shall be exacted and paid in advance into the hands of said Clerk, and by him, daily or weekly, as the Municipal Council may require, and before his salary shall be allowed, accounted for in detail, under

oath, and paid into the Treasury of the city and county, as part of the Special Fee Fund ; *provided*, that such payment in advance shall not be exacted from parties who, upon proving to the satisfaction of the presiding Justice, by their own affidavit, or other evidence, setting forth the facts and circumstances of their demand, that they have a good cause of action, and that they are not of sufficient pecuniary ability to pay the legal fees in advance, shall be admitted by such Justice to sue, either *in forma pauperis* or without such pre-payment.

SEC. 180. It shall not be lawful for any Justice of the Peace, or the Sheriff of such city and county, to collect or receive any fee or compensation whatever (other than the salary in this Act allowed out of the Treasury) for any official services performed in the service or execution of process issued out of the Justices' Court of such city and county, but all fees or moneys legally chargeable for such services shall be paid into the hands of the Justices' Clerk, as aforesaid; and no judgment shall be rendered in the said Justices' Court, or in any action before said Justices, or any of them, until the fees allowed therefor, and all fees for previous services, which are destined to be paid into the Treasury, shall have been paid, as in this Act provided, except in case of poor persons, as provided for in the preceding section. The Justices of the Peace of such city and county are authorized and empowered to appoint a Janitor for their Court-rooms, at a salary not exceeding fifty dollars per month, and his salary shall be allowed by the Auditor of such city and county, and be paid in the same manner as the Justices are paid, out of the Special Fee Fund.

SEC. 181. All actions and proceedings in such city and county, whereof the Justices of the peace have jurisdiction, shall be entitled "In the Justices' Court of the City and County of \_\_\_\_\_," and shall be commenced in said Court as hereinbefore provided, and the original process shall be returnable, and the parties required to appear before the presiding Justice at the aforesaid Justices' Court-room, or before one of the other Justices of the Peace, by the presiding Justice to be designated; but all complaints, answers, and

other pleadings and papers required to be filed, shall be filed, and a record of all such actions and proceedings shall be made and kept in the Clerk's office aforesaid; and the presiding Justice, and each of the other Justices, shall have power to hear, try, and determine any action so commenced, and which shall be made returnable before him, and to make necessary and proper orders therein. The presiding Justice shall also have power, in his discretion, on hearing the wishes and objections of the parties, to assign any cause returnable before him after issue joined therein, and in the cases provided for in the next section to transfer any cause returnable before any other Justice, for trial before some other Justice of the Peace, or before all the Justices, who shall in such case sit together in the Justices' Court-room, and constitute the Court in bank; and the presiding Justice may, in like manner, assign any contested motion, application, or issue in law arising in any cause returnable before him, for hearing before any other Justice, or before the Court in bank as aforesaid; and the said Court, Justice, or Justices, to whom any cause, motion, application, or issue, shall be so as aforesaid assigned, or transferred, shall have full power, jurisdiction, and authority to hear, try, and determine the same accordingly.

SEC. 182. If, at the time of setting or assigning for trial any cause or matter returnable or pending before the presiding Justice, either party shall object to any one of the Justices, on the ground that he is a material witness for such party, or that he cannot have a fair trial before such Justice, or on any other valid ground, the presiding Justice, in case such objection is substantiated in the manner prescribed by section five hundred and eighty-two of the Civil Practice Act, shall allow such objection, and not assign the case for trial, or any matter or motion therein, for hearing before the Justice so objected to, but may assign the same to be tried or heard before some other Justice; and if, at the time of joining issue in a case returnable before any other Justice, objection shall be made to having the cause tried before such Justice, on the ground that such Justice is a material witness for either party, or on the account of the

interest, prejudice, or bias of such Justice, and such objection be substantiated in the manner aforesaid, then the Justice before whom the cause is pending shall suspend proceedings therein, and the presiding Justice, on motion and production before him of the same affidavit and proofs, shall order the transfer of the action for trial before the other Justice, or before himself, if he has not already been objected to, which shall accordingly be done on the terms and in the manner prescribed in the aforesaid section of the Civil Practice Act.

SEC. 183. Cases which, by the provisions of the Civil Practice Act, are required to be certified to the Superior Court, by reason of involving the question of title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, shall be so certified by the Presiding Justice and Justices' Clerk; and for that purpose, if such question shall arise on the trial while the case is pending before one of the other Justices, such Justice shall certify the same, in the manner in said Section 2 of the Civil Practice Act provided, to the Presiding Justice. All transcripts of judgments to be filed in the County Clerk's office, or County Recorder's office, shall be given and certified from the Justices' register, and be signed by the Clerk and Presiding Justice.

SEC. 184. Applications for new trial shall be made to the Presiding Justice, and affidavits, motion therefor, and other papers required to be filed, shall be filed with the Justices' Clerk. The motion shall be heard and determined by the Court in bank. Appeals from judgments rendered in said Justices' Court may be taken and perfected in the manner prescribed by law. The notice of appeal, and all papers required to be filed to perfect it, shall be filed with the Justices' Clerk. The statement on appeal shall be settled, when necessary, before the Justice who tried the cause, or before one of the Justices, if tried in bank. The sureties on appeal, when required to justify, may justify before any one of the Justices. The transcript and papers on appeal shall be made out, certified, and returned to the Superior Court in the form prescribed by the Civil Practice Act, by the Justices' Clerk, verified also by the Presiding Justice.

SEC. 185. The Presiding Justice, whenever in his judgment the prompt dispatch of business shall demand it, may require the aid of one of the Justices of the Peace in the discharge either of his own duties or those of the Justices' Clerk (the collection of fees, accounting for, and paying the same into the Treasury excepted), and each of the Justices, when so required, shall, for the purpose, have the same power and authority as the Presiding Justice or Clerk in whose aid he shall act; and any one of the Justices, when required as aforesaid, may act as a Justices' Clerk *pro tempore* during the temporary absence or inability of said Clerk, with the same powers, duties, and responsibilities.

SEC. 186. In a suitable book, strongly bound, the Justices' Clerk shall keep a permanent record of all actions, proceedings, and judgments commenced, had, or rendered in said Justices' Court; which book shall be a public record, and be known as the "Justices' Register," for which purpose the said Clerk shall give personal attendance and keep minutes of all proceedings had, either before the Presiding Justice or the Justices in bank; and such proceedings as may take place before the other Justices, in cases returnable before them, or which may be assigned or transferred to them for trial or hearing, shall be entered in the dockets of such Justices; and minutes of proceedings shall be kept by such Justices, and be certified and returned, together with all pleadings and papers in the cause, to the Presiding Justice, who shall cause the same to be filed and the proper entries to be made in the cause in the Justices' Register.

SEC. 187. The Municipal Council, whenever they shall deem it necessary, may, by an order duly passed and entered in the records of said Board, establish one other Justices' Court, to be held in such place in the city and county as the public convenience may require—which shall not be within one mile and a half of the Justices' Court-room in this Act provided for; and the said Council shall, by a similar order, designate one of the Justices of the Peace to hold such additional Court. The Justice so designated, and in case of his temporary absence, any other Justice of the Peace, shall have power to hold the said Court, and for that

purpose shall have power to issue process, make all necessary orders, and exercise all the power, authority, and jurisdiction now conferred by law upon Justices of the Peace; and shall be governed in his proceedings in all respects by the laws regulating proceedings in Justices Courts; but shall not be entitled to receive to his use any fees or compensation for official services other than his salary as fixed by this Act.

SEC. 188. All fees for issuance and service of process in such additional Court, and all other fees which now are, or hereafter may be, allowed by law for any official services of the Justice, or Sheriff, or his deputy, in any cause or proceeding commenced or pending therein, shall be by said Justice exacted in advance (except in case of poor persons, provided for in section 6), and be paid into his hands, and be by him, weekly or monthly, as the Municipal Council may require, and before his salary shall be allowed, accounted for with the City and County Auditor in detail, under oath, and in such form as the Auditor shall prescribe, and be paid into the Treasury of said city and county as part of the Special Fee Fund.

SEC. 189. The Justices' Court organized by this Act, and the additional Justices' Court which may be established by the Municipal Council, under authority thereof, and the Justices of the Peace aforesaid, shall be governed in their proceedings by the provisions of the Civil Practice Act regulating proceedings in civil cases in Justices' Courts, and by the provisions of law relating to any special cases and proceedings whereof jurisdiction is or may be conferred upon such Justices and Justices' Courts, so far as such provisions are not repealed, altered, or modified by those of this Act, and the same are, or can be made, applicable in the several cases arising before them.

SEC. 190. All actions and proceedings pending and determined before the Justices' Court of said city and county at the time of its organization under this Act, shall be proceeded in, heard, and determined, before the Court herein provided for, and execution shall be issued thereon, and other proceedings therein, whether before or after judgment,

whether on appeal, or otherwise, and the Court provided for under this Act, shall be deemed to be a continuation of the same Court before existing, and not a new Court.

SEC. 191. The Superior Court of such city and county shall have power to make rules, not inconsistent with the Constitution and laws, for the government of the Justices' Courts therein, and the government of the officers thereof, but such rules shall not be in force until thirty days after their publication, and no rule shall be made imposing any tax or charge on any legal proceeding, or giving an allowance to any Justice or officer for services.

SEC. 192. The Justices of the Peace, and Justices' Clerk, and Justices' Clerk's deputy shall receive for their official services the following salaries, and no other compensation, payable monthly out of the City and County Treasury, and out of the Special Fee Fund, after being first allowed and audited, as other similar demands are by law required to be allowed and audited: To the presiding Justice, not to exceed two thousand five hundred dollars per annum; to each of the Justices of the Peace (the presiding Justice excepted), not to exceed two thousand dollars each per annum; to the Justices' Clerk, not to exceed eighteen hundred dollars per annum; and to the Justices' Clerk's deputy, not to exceed the sum of nine hundred dollars per annum.

SEC. 193. It shall not be lawful for any Justice of the Peace, the Justices' Clerk, or the Sheriff, or any of his deputies, of such city and county, to appear, or advocate, or in any manner act as attorney, counsel, or agent, for any party, or person, in any cause, or in relation to any demand, account, or claim pending, or to be sued or prosecuted before said Justices, or any of them, or which may be within their jurisdiction. A violation of the provisions of this section shall be deemed a misdemeanor in office.

SEC. 194. No person, other than an attorney-at-law, duly admitted and licensed to practice in Courts of record, shall be permitted to appear as attorney or agent for any party, in any cause or proceeding before said Justices, or any of them, unless he produce a sufficient power of attorney to that effect, duly executed and acknowledged before one of said

Justices, or before some other officer authorized by law to take acknowledgment of deeds; which power of attorney, or a true copy thereof, duly certified by one of the Justices aforesaid, (who, on inspection of the original, shall attest to its genuineness,) shall be filed among the papers in such cause or proceeding.

SEC. 195. The Sheriff of such city and county shall be the executive officer of said Court, and may appoint one deputy specially to act for him in said Court, whose salary shall not exceed seventy-five dollars a month, payable as other salaries are paid. It shall be the duty of the said Sheriff to serve and execute, or cause to be served and executed, each and every process, writ, or order that may be issued by the Justices' Court, in and for such city and county, the service of which is not otherwise provided for by law. Subpcenas for witnesses may be issued by said Justices' Clerk, without a Justice's order. The office of Constable, so far as such city and county is concerned, is abolished. The summons issued from the Justices' Courts may be served and returned as provided in Title Five, Part Second, of the Code of Civil Procedure.

#### POLICE JUDGE'S COURT.

SEC. 196. The Police Judge's Court of such city and county shall have jurisdiction:

*First.* Of an action or proceeding for the violation of any ordinance of such city and county.

*Second.* Of proceedings respecting vagrants and disorderly persons.

SEC. 197. The said Court shall have jurisdiction of the following public offenses, committed in said city and county:

*First.* Petit larceny; receiving stolen property, when the amount involved does not exceed fifty dollars.

*Second.* Assault and battery, not charged to have been committed upon a public officer in the discharge of his duties, or with intent to kill.

*Third.* Breaches of the peace, riots, affrays, committing willful injury to property, and all misdemeanors punishable by fine not exceeding one thousand dollars, or by imprison-

ment not exceeding one year, or by both such fine and imprisonment.

*Fourth.* Said Court or Judge shall have jurisdiction of proceedings for security to keep the peace; and also, throughout such city and county, the same powers and jurisdiction in other criminal actions, cases, and proceedings as are now or hereafter may be conferred by law upon Justices of the Peace or Justices' Courts. The Justices of the Peace within the limits of such city and county shall not have power to try and decide any cases of the classes mentioned in this section.

SEC. 198. The Judge of said Court shall also have power to hear cases for examination, and may commit and hold the offender to bail for trial in the Superior Court, and may try, condemn, or acquit, and carry his judgment into execution, as the case may require, according to law, and shall have power to issue warrants of arrest, subpoenas, and all other process necessary to the full and proper exercise of his power and jurisdiction. All fines imposed by the Police Judge, not exceeding twenty dollars, exclusive of costs, shall be final and without appeal.

SEC. 199. The said Judge may punish contempts in the same manner and to the same extent as Superior Judges; and the laws concerning contempts applicable to Superior Courts and Judges shall be applicable to said Police Court and Judge.

SEC. 200. The Police Judge's Court shall have a Clerk, to be appointed by the Mayor, with the consent of the Board of Councillors, who shall keep a record of its proceedings, issue all process ordered by said Court, and receive and pay weekly into the Treasury of such city and county all fines imposed by said Court. He shall render to the City and County Auditor, monthly, and before any amount can be paid to him on account of his salary, an exact and detailed account upon both, accompanied with an exhibition of said record of all fines imposed and moneys collected since his last account rendered. He shall prepare bonds, justify and accept bail, when the amount has been fixed by the Police Judge, in cases not exceeding one thousand dollars, and he

shall fix, justify, and accept bail after arrest in the absence of the Police Judge in all cases not amounting to a felony, in the same manner and to the same effect as though the same had been fixed by the Police Judge. The Clerk shall remain at the Court-room of said Court during the hours required by law, and during such reasonable hours thereafter as may be necessary for discharging his said duty. The Clerk of the Police Court shall have a salary not to exceed two hundred dollars a month, and shall give a bond conditioned for the faithful performance of his duty, to be fixed by the Municipal Council, at not less than ten thousand dollars, and to be subject to the laws governing other official bonds. The Clerk of the Police Court shall pay over to the Treasurer, once a day, all fines collected up to such payment, and shall make a full sworn settlement with the Auditor and Treasurer once a week, filing an affidavit with such officers of its correctness; which affidavit shall show all the facts, and that no funds remain in his hands. Any violation of this provision shall be deemed a misdemeanor in office, and vacate the same, and such delinquency shall be reported by the Treasurer and Auditor to the Mayor, who shall appoint another person to fill the place forthwith.

SEC. 201. All fines imposed by the Police Judge's Court shall be paid into the Treasury of such city and county as part of the Police Fund. In cases where, for any offence, the said Court is authorized to impose a fine, or imprisonment in the County Jail, or both, it may, instead, sentence the offender to be employed in labor on the public works, or in the House of Correction, or Work-house as the Municipal Council may prescribe, for a period of time equal to the term of imprisonment which might legally be imposed, and may, in case a fine is imposed, embrace as a part of the sentence that, in default of payment thereof, the offender shall be obliged to labor on said works, at said House of Correction, or Work house, or elsewhere, at the rate of one dollar a day, till the fine imposed is satisfied.

SEC. 202. The Police Judge shall be appointed by the Mayor, by and with the advice of the Board of Councillors, and shall hold office for two years, and till his successor is

duly appointed and qualified. His salary shall be not to exceed four thousand dollars a year.

SEC. 203. The Municipal Council may, by ordinance adopted by a vote of three-fourths of all the members elected to both Houses, establish a second Police Court, with co-ordinate jurisdiction with the Court herein provided for. The Judge and Clerk of such second Court shall be appointed in like manner and term of office, and shall have the same salary, and held liable to the same duties, obligations, and responsibilities.

#### CORONERS IN CITIES AND COUNTIES OF THE FIRST CLASS.

SEC. 204. There shall be elected by the qualified voters of such city and county, at each general election, one Coroner, who shall hold office for two years, and until his successor shall be elected and qualified. His salary shall be not to exceed three thousand dollars a year, payable out of the General Fund, with the powers and duties prescribed by law for County Coroners, and such additional powers and duties, not in conflict therewith, as the Municipal Council may prescribe. The Municipal Council may authorize the Coroner to appoint one deputy, with a salary not to exceed nine hundred dollars a year, payable in like manner, but the deputy shall not hold inquests.

SEC. 205. The following officers shall be elected at the first general State election held after the passage of this Act, and at the general State election held every two years thereafter, and shall hold office for two years, and until their respective successors are duly elected and qualified, viz.: A Mayor, Sheriff, Auditor, Tax Collector, Assessor, Treasurer, County Clerk, Recorder, District Attorney, City and County Attorney, Coroner, Surveyor, Superintendent of Streets, Superintendent of Schools, three Justices of the Peace. At the same election shall be elected from said city and county twelve Councillors, in the manner and who shall hold office as provided in section 13 of this Act. Also, twelve Delegates to the Municipal Council, to be elected in the manner and to hold office as provided in section 15 of this Act.

SEC. 206. Until reduced by the Municipal Council, and which reduction shall never take effect as to any officer till the expiration of the term of the then incumbent, the salaries of said officers shall be as follows: The Mayor shall receive five thousand dollars a year; the Sheriff, six thousand dollars; the Auditor, four thousand dollars; the Tax Collector, four thousand dollars; the Assessor, four thousand dollars; the Treasurer, four thousand dollars; the Recorder, three thousand dollars; the County Clerk, four thousand dollars; the District Attorney, Five thousand dollars; the City and County Attorney, Five thousand dollars; the Coroner, three thousand dollars; the Surveyor, four thousand dollars; the Superintendent of Streets, four thousand dollars; the Superintendent of Schools, three thousand dollars; the Justices of the Peace, each, two thousand dollars, except the one to be elected Chief Justice, who shall receive two thousand five hundred dollars a year; which said salaries shall be in full compensation for all official services required of them by law, and no officer shall ever, under any pretence, take to his own use any fees, perquisites, or profits, beyond said salary, but the same shall in all cases be paid into the City and County Treasury.

SEC. 207. The following officers shall receive salaries, to be established by the Municipal Council, not to exceed the sums herinafter named: One Under Sheriff, one hundred and fifty dollars a month; not more than deputy Sheriffs, which shall include all jailors, turnkeys, and assistants, which number shall be regulated by the Council, with salaries not to exceed seventy-five dollars a month each; one book-keeper in Sheriff's office, at one hundred and fifty dollars a month. In the Tax Collector's office, one Chief Deputy, and one Clerk Deputy, with salary at not more than one hundred and fifty dollars a month each, and general Deputies and Clerks, with salaries not to exceed one hundred dollars a month each; auctioneer to Tax Collector's commission on sales not to exceed two hundred dollars a year. In the Assessor's office, one Chief Deputy, at not to exceed one hundred and fifty dollars a month, and Assistants not to exceed one hundred dollars a month; one

Draughtsman, at not to exceed one hundred and fifty dollars a month, and one Assistant, not to exceed one hundred dollars a month ; eighteen temporary Field Deputies, not to be employed over three months in the year, at not to exceed the rate of one hundred dollars a month each ; three Interpreters for the Criminal Courts, at not to exceed one hundred dollars a month each; one Clerk to the Mayor, at not to exceed one hundred dollars a month; one Deputy Auditor, at not to exceed one hundred and fifty dollars a month; one Deputy to the Treasurer's office, at not to exceed one hundred and fifty dollars a month, and one additional, at not more than one hundred dollars a month; one Assistant District Attorney, at not more than two hundred (200) dollars a month; one Clerk to District Attorney, at not more than one hundred dollars a month. The Municipal Council may authorize the County Recorder to appoint as many Deputy Clerks as he may deem necessary to perform the duties of the office, and they shall be paid not to exceed ten cents per folio of one hundred words for all matters registered or copied by them respectively. The Recorder, or his Deputy, when papers are presented for registration, or to be copied, shall write on the margin of each paper so presented, the number of folios paid for, and shall, in his monthly return to the Treasurer, certify, under oath, the number of folios copied or registered by each of said Deputy Clerks, and such certificate of the Recorder shall be evidence to authorize the Auditor to audit such certified accounts of such Deputy Clerks monthly; one Chief Deputy Recorder, at not more than one hundred dollars a month; one Porter in Recorder's office, at not more than fifty dollars a month.

SEC. 208. The several officers named in this Act who are entitled to charge and collect, or receive any fees, commissions, percentages, or other compensation, of whatever nature or kind, allowed by law for services rendered by them, or their deputies, shall collect and safely keep the same, and, on each Monday, they shall pay the total amount by them received to the Treasurer of such city and county, who shall set apart the same as a "Special Fee Fund," for the

payment of the respective salaries of the several officers entitled to charge and collect fees, commissions, or other compensations. The surplus, if any there is, shall go to the General Fund, out of which all other officers shall be paid.

SEC. 209. It shall be the duty of all officers who are entitled to charge and collect fees, commissions, or other compensation for official services, to keep a book, or books, in which shall be entered by items the amount received by them, or their deputies, showing the dates, amounts received, and nature of the services, which book, or books, shall be open at all hours to the inspection of the public, and of the Auditor, whose special duty it is to inspect the same once a month. Each of such officers shall, at the expiration of each month, make out and verify, under his oath, and file with the Auditor, a full and accurate transcript of said book, or books, of the entries for the preceding month.

SEC. 210. It shall be the duty of the Treasurer of such city and county to receive, receipt for, and safely keep all moneys paid over to him under the provisions of this Act, and to make up, quarterly, an accurate statement of said Special Fee Fund, showing the actual position of the same up to such time, when, if any, balance remain in said fund after satisfying all demands payable out of the same, the Treasurer shall transfer such balance to the General Fund; but should such Special Fee Fund be insufficient to satisfy all the demands payable therefrom, then the Treasurer shall, at the request of the holder, register such unpaid demands against, and pay the same in their order of registration out of the General Fund, as in other cases.

#### ADDITIONAL CLERKS AND EMPLOYEES.

SEC. 211. The Municipal Council may, from time to time, by a vote of three-quarters of all the members elected to each branch, and not otherwise, authorize the appointment of such additional deputies, clerks, and laborers for any of the various city and county offices, and for such period of time, as in their judgment may be necessary for the proper and faithful discharge of the duties of such office or department. Deputies appointed under the provisions of

this section shall receive not to exceed one hundred dollars per month each, clerks not more than eighty, and laborers not more than fifty; but in no case shall the aggregate pay of such deputies and others exceed                      dollars per annum, nor shall any ordinance permitting such appointment remain in force longer than one year, as provided elsewhere in this Act, and of that fact the Auditor is charged with notice in auditing demands for salary. But all such additional clerks shall be appointed by the heads of the departments where they are required, nor shall the Municipal Council, or either branch thereof, ever appoint or fill any office or place created by them, or otherwise, unless expressly so provided by law.

SEC. 212. The fees receivable by the officers named in section 207 of this Act shall be payable in advance.

SEC. 213. For a willful neglect or refusal to comply with any of the provisions of Section 208 of this Act, by any officer or officers herein named, he or they shall be deemed guilty of felony, and, on conviction thereof in the proper Court, shall be subject to a fine not to exceed five thousand dollars, and a forfeiture of office, or to imprisonment in the State Prison not less than one nor more than three years, or to both such fine and imprisonment; *provided*, that nothing herein shall be held to release such officer from the obligation to give the official bond required by law, or from any civil responsibility arising from his official duties.

SEC. 214. The Municipal Council are empowered by ordinance to make such regulation concerning the collection of poll tax as will place that department, with any officer or Board in the city government, as they shall find most advantageous for the public service.

#### DEPARTMENT OF EDUCATION.—MANNER OF APPOINTMENT AND POWERS OF THE BOARD.

SEC. 215. There shall be a Board of Education for such city and county, which shall be composed of twelve School Directors, appointed by the Mayor by and with the advice and council of the Board of Councillors, who shall hold office for two years and until their successors are appointed

and qualified. They shall have the same qualifications requisite for members of the Board of Councillors. The School Directors shall receive no salary. Said Board shall organize immediately after the election and qualification of its members, by electing a President from among the Directors elected, and annually thereafter, and shall hold meetings monthly, and at such times as the Board shall determine. A majority of all the members appointed shall constitute a quorum to transact business, but a smaller number may adjourn from time to time. The Board may determine the rules of its proceedings. Its sessions shall be public, and its records shall be open to public inspection.

SEC. 216. The Board of Education shall have power:

*First.* To establish School Districts, and to fix and alter the boundaries thereof.

*Second.* To maintain Public Schools as organized at the time of the organization of such city and county under this Act, and to consolidate and discontinue the same as the public good may require.

*Third.* To establish normal and experimental schools for the education of teachers.

*Fourth.* To employ, and pay, and to dismiss teachers, janitors, school census marshals, and such mechanics and laborers as may be necessary to carry into effect the powers and duties of the Board, and to fix, alter, and allow paid their salaries and compensations, and to withhold, for good and sufficient cause, the whole or any part of the salary or wages of any person, or persons, employed as aforesaid.

*Fifth.* Also to make, and establish, and enforce all necessary and proper rules and regulations for the government and efficiency of the schools, the teachers, and pupils; and for the carrying into effect of the school system; and to establish, and regulate, and grade the schools, the course of studies and mode of instruction therein. To investigate all charges of misconduct on the part of teachers and other employees of the Board; to administer oaths, take testimony; to summon and enforce the attendance of, and examine witnesses for such purpose before the Board, or a member, or Committee thereof. Any person summoned, and refusing

to attend and testify, shall be deemed guilty of a misdemeanor; and any person testifying falsely, shall be guilty of perjury, and, on conviction, punished accordingly.

*Sixth.* To provide for the School Department of such city and county fuel, lights, blanks, blank-books, books, printing, and stationery, and such other articles, materials, or supplies, as may be necessary and appropriate for use in the schools, or in the office of the Superintendent, and to incur incidental expenses not exceeding dollars per annum.

*Seventh.* To build, alter, repair, rent, and provide school-houses, and furnish them with proper school furniture, apparatus, and school appliances, and to insure any and all school property, and to use and control such buildings as may be necessary for the uses of the Board and its Committees, and to store supplies.

*Eighth.* To receive and hold in fee, in trust for the city and county, any and all real estate and personal property that may have been, or which hereafter may be, acquired, for the use and benefit of the schools of such city and county.

*Ninth.* To grade, fence, and improve school lots, and in front thereof; to grade, sewer, plank, or pave, and repair streets, and to construct and repair sidewalks. All such work shall be done by contract, subject to the provisions of section 219 of this Act.

*Tenth.* To sue for any and all lots, lands, and property belonging to, or claimed by, the School Department, and to prosecute and defend all actions at law, or in equity, necessary to recover the full enjoyment and possession of said lots, lands, and property, and to require the services of the City and County Attorney in all such suits and proceedings.

*Eleventh.* To establish regulations for the just and equal disbursement of all moneys belonging to the Public School Fund, and to make rules and regulations to secure economy and accountability in the expenditure of school money.

*Twelfth.* To discharge all legal incumbrances existing upon any school property. To dispose of and sell such personal property, used in the schools, as shall no longer be

required, and all moneys realized by such sales shall be paid into the City Treasury, to the credit of the School Fund.

*Thirteenth.* To lease, for the benefit of the School Fund, for a term not exceeding ten years, any unoccupied property of the School Department, not required for school purposes. To prohibit any child, under six years of age, from attending the schools. And, generally, to do and perform such other acts as may be necessary and proper to carry into force and effect the powers conferred on said Board.

### GENERAL PROVISIONS.

SEC. 217. The President of the Board of Education, the Superintendent, and the Secretary shall have power to administer oaths or affirmations concerning any demands upon the Treasury, payable out of the School Fund, or other matters relating to their official duties, or the Department.

SEC. 218. It shall be the duty of each Director to make quarterly reports to the Board of the condition of the schools in their respective Districts.

### HOW CONTRACTS ARE LET.

SEC. 219. It shall be the duty of the Board of Education to furnish all necessary supplies for the Public Schools. All supplies, books, stationery, fuel, printing, goods, material, building, repairs, merchandise, street work, and every other article and thing supplied to or done for the Public Schools, or any of them, shall be done by contract, let to the lowest responsible bidder, after advertisement by the Superintendent of Schools, who shall be governed, so far as applicable, by the provisions of sections 75 to 86 inclusive of this Act regulating purchases by the Commissioners of Supplies and the Board of Public Works; and the contract shall be entered into by the Superintendent with the party to party to whom the contract is awarded; and the Superintendent shall take care that such contract is carried out in strict accordance with the terms thereof. The bidding and everything connected therewith, as well as all matters and things connected with giving out of such contracts and their enforce-

ment, shall be governed by the rules provided in the sections of this Act above specified, viz., 75 to 86 inclusive.

SEC. 220. All bids or proposals made under Section 219 of this Act, shall be delivered to the Superintendent of Public Schools, and said Board shall, in open session, open, examine, and publicly declare the same, and award the contract to the lowest responsible bidder; *provided*, said Board may reject any and all bids, should they deem it for the public good, and also the bid of any party who may be proved delinquent or unfaithful in any former contract with such city and county, or said Board, and cause a re-publication of the notice for proposals, as above specified. Any person may bid for any one article. The Board of Education, if authorized so to do by ordinance of the Municipal Council, may dispense with the requirement to let contracts only after advertisement, where the article or thing required costs less than two hundred dollars.

SEC. 221. Any School Director, officer, or other person officially connected with the School Department, or drawing a salary from the Board of Education, who shall, while in office, or so connected, or drawing salary, be interested, either directly or indirectly in, or who shall gain any benefit or advantage from any contract payments under which are to be made in whole or in part of the moneys derived from the School Fund, or raised by taxation or otherwise for the support of the schools, shall be deemed guilty of felony, and, on conviction, punished accordingly; and this provision shall not be construed to relieve such persons from any other penalty, but shall be deemed cumulative to and with other penalties and disabilities as to such acts and offenses.

#### REPORTS.

SEC. 222. The Board shall make and transmit, between the fifteenth day of January and the first day of February of each year, to the State Superintendent of Public Instruction, and to the Mayor and Municipal Council of such city and county, a report, in writing, stating the whole number of schools within the jurisdiction, the length of time they

have been kept open, the number of pupils taught in each school, the whole amount of money drawn from the Treasury by the Department during the year, distinguishing the amounts drawn from the General Fund of the State, from all other, and what sources, the manner and purpose in which such money has been expended, with particulars, and such other information as may be required from them by the State Superintendent, the Municipal Council, or the Mayor.

SEC. 223. The Board shall provide evening schools, to be held in the Public School Houses, for the benefit of those unable to attend the day schools. They shall make and enforce regulations requiring the teachers to keep records of the names, ages, and residences of all pupils, and of the parents, and the aggregate attendance of each pupil during the year, and to verify and report the same on the thirty-first day of December to the Board; and such other rules and regulations, for the purpose of ascertaining the attendance and efficiency of the Department, and progress of education.

#### DUTIES OF SUPERINTENDENT OF SCHOOLS.

SEC. 224. The Superintendent of Public Schools shall be *ex officio* a member of the Board of Education, without the right to vote.

SEC. 225. Said Superintendent shall appoint a Clerk, subject to the approval of the Board of Education, who shall act as Secretary of said Board. His salary shall be fixed and paid by the Board, but shall not exceed one hundred and twenty-five dollars a month. Said Clerk may be removed at the pleasure of the Superintendent, and shall perform such duties as shall be required of him by the Board, or the Superintendent.

SEC. 226. The Superintendent shall report to the Board annually, on or before the twentieth day of June, and at such other time as the Board may require, all matters pertaining to the expenditures, income, condition, and progress of the Public Schools of such city and county during the preceding year, with such recommendations as he may deem proper. He shall observe, and cause to be observed, such

general rules for the regulation, government, and instruction of the schools, not inconsistent with the laws of the State, as may be established by the Board. He shall attend the sessions of the Board, and inform himself at each session of the condition of the schools, school-houses, school funds, and other matters connected therewith, and to recommend such measures as he may deem necessary for the advancement of education in such city and county. He shall acquaint himself with all the laws, rules, and regulations governing the Public Schools in such city and county, and the judicial decisions thereon, and give advice on subjects connected with the Public Schools gratuitously to officers, teachers, pupils, and their parents and guardians.

SEC. 227. The Superintendent of Public Schools shall visit and examine the schools, and see that they are efficiently conducted, and that the law and the regulations of the Board are enforced in all things, and that no religious or sectarian books or teachings are allowed in the schools, and to report monthly to the Board. He shall also report to the State Superintendent at such times as such officer shall require.

SEC. 228. Any vacancy in the office of School Director shall be filled for the remainder of the term by a person to be appointed by the Mayor, by and with the advice and consent of the Board of Councillors.

SEC. 229. In case of a vacancy in the office of Superintendent, the Board may appoint a person to fill the vacancy until the next regular election, when the office shall be filled by the people.

#### SCHOOL FUND.

SEC. 230. The School Fund of such city and county shall consist of all moneys received from the State School Fund, of all moneys arising from taxes which shall be levied annually by the Municipal Council of such city and county for school purposes as provided in section 44 of this Act, of all moneys arising from the sale, rent, or exchange of any school property, and of such other moneys as may, from any source whatever, be paid into said fund. Said fund shall be kept in the City and County Treasury, separate and distinct from

all other moneys, and shall only be used for school purposes under the provisions of this Act, and for the payment of the interest and redemption of the principal of the school bonds, according to law. No fees or commissions shall be allowed or paid for assessing, collecting, keeping, or disbursing any school moneys; and if, at the end of any fiscal year, any surplus remains in the School Fund, such surplus money shall be carried forward to the School Fund of the next fiscal year, and shall not be, for any purpose whatever, diverted or withdrawn from said fund except under the provisions of this Act.

SEC. 231. The said School Fund shall be used and applied by said Board of Education for the following purposes, to wit:

*First.* For the payment of the salaries or wages of teachers, janitors, school-census marshals, and other persons who may be employed by said Board.

*Second.* For the erection, alteration, repair, rent, and furnishing of school-houses.

*Third.* For the expenses of Model and Normal Schools.

*Fourth.* For the purchase money or rent of any real or personal property purchased or hired by the Board.

*Fifth.* For the insurance of all school property.

*Sixth.* For the payment of interest due on school bonds, and for the redemption of the same.

*Seventh.* For the discharge of all legal incumbrances existing on any school property.

*Eighth.* For lighting school-rooms and the office and rooms of the Superintendent and the Board of Education.

*Ninth.* For supplying the schools with fuel, water, apparatus, blanks, blank-books, and necessary school appliances, together with books for indigent children.

*Tenth.* For supplying books, printing, and stationery for the use of the Superintendent and Board of Education, and for the incidental expenses of the Board and Department.

*Eleventh.* In grading, fencing, and improving school lots, and for grading, sewer ing, planking, or paving, or repairing streets, and constructing and repairing sidewalks in front thereof.

## AUDITING AND ALLOWANCE OF CLAIMS.

SEC. 232. All claims payable out of the School Fund (excepting the coupons for interest on the school bonds) shall be filed with the Secretary of the Board, and after they shall have been approved by a majority of all the members elect of the Board upon a call of "yeas" and "nays" (which shall be recorded), they shall be signed by the President of the Board and the Superintendent of Public Schools, and be sent to the City and County Auditor. Every demand shall have endorsed upon it a certificate of its approval by the Board, showing the date thereof and the law authorizing it by title, date and section. All demands for teachers' salaries shall be payable monthly.

SEC. 233. Demands on the School Fund may be audited and approved in the usual manner, although there shall not, at the time, be money in the Treasury for the payment of the same; *provided*, that no demand on said fund shall be paid out of or become a charge against the School Fund of any subsequent fiscal year; and, *further provided*, that the entire expenditures of the said School Department, for all purposes, shall not, in any fiscal year, exceed the revenues thereof for the same year.

SEC. 234. The City and County Auditor shall state, by indorsement upon any claim or demand audited on the School Fund, the particular money or fund out of which the same is payable, and that it is payable from no other source.

SEC. 235. Audited bills for the current fiscal year for wages or salaries of the teachers in the Public Schools shall be receivable for school taxes due upon real estate.

SEC. 236. All lawful demands authorized by this Act for school purposes shall be audited and approved in the usual manner, and the Auditor and Treasurer of such city and county are respectively authorized to audit and pay the same when so ordered paid and approved by the said Board; *provided*, that the said Board shall not have the power to contract any debt or liability, in any form whatsoever, against such city and county; and, *provided further*, that the allowance or approval by the Board of demands not authorized by this Act shall be no warrant or authority to the Auditor or Treasurer to audit or pay the same.

## SCHOOL TAX LEVY.

SEC. 237. It shall be the duty of the Board of Education of such city and county, on or before the second Monday of September of each year, to report to the Municipal Council an estimate of the amount of money which will be required during the year for the purpose of meeting the current annual expenses of public instruction in such city and county, specifying the amount required for supplies furnished pupils; for purchasing and procuring sites; for leasing rooms, or erecting buildings, and for furnishing, fitting up, altering, enlarging, and repairing buildings; for the support of schools organized since the last annual apportionment; for salary of teachers, janitors, clerks, and other employees, and other expenditures authorized by law; but the aggregate amount so reported shall not exceed the sum of twenty-five dollars for each pupil who shall have actually attended and been taught in the preceding year in the schools entitled to participate in the apportionments. The number of pupils who shall be considered as having attended the schools during any one year shall be ascertained by adding together the number of days' attendance of all the pupils in the common schools during the year, and dividing the same by the number of school days in the year. Said Municipal Council is authorized and empowered to levy, and cause to be collected at the time and in the manner of levying State and other city and county taxes, the amount of tax, not to exceed twenty-five dollars per pupil, determined and reported by the Board of Education, and not to exceed twenty-five cents on the one hundred dollars of valuation of property subject to such tax.

SEC. 238. No school shall receive any portion of the school moneys in which the religious doctrines or tenets of any particular Christian or other religious sect shall be taught, inculcated, or practiced, or in which any book, or books, containing compositions favorable or prejudicial to the particular doctrines or tenets of any particular Christian or other religious sect is used; nor shall any such books or teachings be permitted in the Common Schools.

## PENALTIES FOR BRIBERY AND TAKING PRESENTS.

SEC. 239. No member of the Board of Education shall ever become the disbursing agent of such Board, or handle, or pay out of any of its money under or upon any pretence whatever. Any violation of this provision shall be a misdemeanor, and shall subject the offender, besides the punishment, to removal from office. Any member or officer of the Board of Education who shall, while in office, accept any donation or gratuity in money or of any valuable thing, either directly or indirectly, from any teacher, or candidate, or applicant for a position as teacher, upon any pretence whatever, shall be deemed guilty of a misdemeanor in office, and shall be ousted by the Board, or by any Court of competent jurisdiction, from his seat, on proof thereof. Any member or officer of the Board of Education who shall accept any money, or valuable thing, or the promise thereof, with an agreement or understanding, express or implied, that any person shall, in consideration thereof, get the vote or influence of such member or officer for a situation as a teacher or employee of any kind in the School Department, shall be deemed guilty of a felony and, on conviction, shall be punished accordingly.

## ELECTION PROCEEDINGS FOR ADOPTION.

SEC. 240. Any city, or city and county, in this State, which, by the United States census taken in the year 1870, was found to have a population of more than one hundred thousand inhabitants, shall be deemed, without further proof, to be of the First Class under this Act, and all courts and officers are required to take judicial notice of what cities or cities and counties come within such class.

SEC. 241. It shall be the duty of the Board of Supervisors, or other governing body of any city and county in this State of the First Class, upon the passage of this Act, to cause the same to be published in one or more daily newspapers of general circulation in such city and county, for not less than ten days, for public information.

SEC. 242. Said Board, or other governing body, and any and

all boards, authorities, and officers having charge or control of elections, are required to submit the question to the qualified voters of such city and county at the next general State election after said publication, whether or not they will adopt the provisions of this Act, and reorganize such city and county under the same. If, at such election, a majority of the votes cast upon the question are in favor of such adoption and reorganization, then the Mayor shall, as soon as the fact is ascertained, issue a proclamation to that effect, from the issuance of which proclamation such city and county shall be deemed to be governed by the provisions of this Act, and to be duly reorganized thereunder. The officers herein provided to be chosen by popular election shall be voted for at such election, and the result ascertained and declared in the manner that other election results are ascertained and declared, and such officers, if such vote upon the question of reorganization is in the affirmative, shall be deemed to be elected, and to hold office under such reorganized municipal government, and the laws governing the same contained in this Act and the Constitution, and laws and ordinances in force in such city and county, so far as the same are not inconsistent with or repealed or modified hereby.

SEC. 243. All ordinances of the former legislative power of such city and county, not inconsistent with or otherwise provided for by the provisions of this Act, shall remain in force after the adoption of the same until repealed or modified by the Municipal Council. All laws with respect to the city and county debt, its sinking fund and interest, shall remain unaffected by this Act. All former Consolidation Acts and amendments thereto, and all other special laws relating to the former organization and government of such city and county, as to matters provided for herein or hereby, shall be deemed superseded and abrogated by the provisions of this Act from the time of the reorganization of such city and county hereunder.

SEC. 244. This Act shall take effect and be in force from and after its passage. .



## A BRIEF STATEMENT

OF SOME OF THE MOST IMPORTANT CHANGES PROVIDED FOR  
IN THE FOREGOING PROPOSED NEW CHARTER.

*To the Executive Committee of the Taxpayers' Union of 1873:*

GENTLEMEN: Having been engaged by you in August last to prepare amendments to the Charter of the city of San Francisco, to be laid before the next Legislature for consideration, I herewith respectfully submit to you the result of my work. In view of the dangers that always attend any sudden and considerable change in existing and known laws, I have endeavored to retain as nearly as possible intact the structure, and even the phraseology, of the Consolidation Act, and to add such amendments and qualifications as are necessary to bring it in harmony with the new Constitution, and, at the same time, to obviate the evils that have developed under its operation. That instrument, though exceedingly imperfect, and with many glaring defects, is, in my judgment, and after a careful examination of the Charters, both old and new, of the large Eastern cities, by far the best suited to the condition of things existing in this country, and is altogether in the right direction. The worst fault of the Consolidation Act unquestionably lies in the overshadowing power of the Supervisors, as a Board and as individual members, over all other officers, Boards, and Departments. They exercise, at the same time, Legislative, Executive, and Judicial functions, and each almost without practical check. They possess, in too many cases, uncontrolled power without corresponding responsibility. They can authorize contracts, let them, and then supervise their performance. They can, as a Board, order money to be expended, and then, as individual members, put the money in their pockets and go about from place to place, as disbursing agents, and pay it out. That such powers are liable to abuse, must be obvious

to any person who gives the matter a moment's consideration. I have endeavored to remedy this in the "proposed new Charter," by confining the two Boards constituting the Municipal Council as nearly as possible to legislative functions, leaving the executive and judicial to other Departments. Another fault with the Consolidation Act is the want of any sufficient power over or scrutiny into the workings of the various officers, and their departments, and especially the notable weakness of the Mayor, who possesses under it but little more than the name of the office without its real efficacy for good, while the public look to him for protection which he is unable to extend to them. The result of this defect is that our city has fallen into the control of a number of apparently independent bureaus, with the inevitable tendency in each department to let all others alone, so long as it can be left to do as it pleases. I have endeavored to remedy this evil, by giving the Mayor power commensurate, to some extent, with the responsibility implied by the name of the office he exercises. I have also provided for a restoration of the Auditor to the position he should, and, perhaps, was intended to occupy in the city government, of controller and guardian of its finances, and have divested him of all other functions. I have erected the City and County Attorney and Councillor into a real responsible position, with duties and powers, and taken care that he shall be something more than the mere servant of the other Boards and Departments. The growth of sinecure places I have tried to stop, and for the purpose have provided a measure whereby all places and positions are to be reported quarterly to the City and County Attorney, who is required to take steps that will, I believe, put an end to sinecure-ships in all Departments. I have provided for a Board of Public Works, who are to be the prime mover in all street and other improvements, to recommend, as a jurisdictional fact, all work, to make estimates, to advertise for bids, and when contracts have been let to the lowest bidder by another Department, to superintend the performance of them. I have not, however, provided for any new officer to belong to such Board, but have placed the duties upon the Mayor,

the Superintendent of Streets, and the Surveyor, as *ex-officio* members, without additional salaries. It may be said that this will give too much work for the Mayor; I do not think so. The city is in course of construction, and wants, and should have, the services of the Chief Executive to the exclusion of any private business or occupation. It may do for old and finished cities to have ornamental Mayors, but ours has not reached that point. Whatever other inefficient or unworthy men our political system may foist upon the public as officials, my observation has convinced me that we may generally count, with reasonable probability, that our best citizens will occupy the Mayoralty, and that fact should be utilized by getting as much good service, care, and watchfulness from that functionary as possible. And this can only be done by giving him the power and charging him with the responsibility of protecting the public. When the people cannot be counted upon with reasonable certainty to elect a competent and honest man to that office, free municipal government will be surely drawing to an end.

I have provided for the appointment of the School Directors, instead of their election by the people. I shall not undertake to argue at length in this paper the advantages of this plan over the one now in force. Most people have opinions upon this matter that I could not hope to alter. I shall content myself with saying that I have made this change because I think it an improvement. If there were no other reason, and there are many others, it would be enough to say that there are scores of citizens, the best fitted for the place, who nothing would induce to run for the office and take the annoyance and chances of defeat at a popular election, yet who would cheerfully act, and without pay, if this position was tendered to them as an appointment. I have provided for an *ex-officio* Board of Commissioners to purchase supplies, and have endeavored to hedge in the advertisements for bids, the opening of proposals, and the awarding and carrying out of contracts, with such checks as will secure the public more completely than it now is from fraud and peculation in that direction. The Departments of Fire, Police and Elections, I have placed under the con-

trol of a Board of Commissioners, to be appointed by the Mayor and confirmed by the upper branch of the Municipal Council or Legislature. These Commissioners are to be well paid, so they can devote their whole time to their duties. They will be ineligible to any other office, and care has been taken, so far as I am capable, not only to remove every inducement, but to prevent, by positive prohibition, either of the Departments from being operated as political machines. I have provided for a reduction of the police force from its present number to two hundred and fifty officers and members, but have, for obvious reasons, added a clause that the reduction shall not be immediate, but shall take place by deaths, resignations, and removals for cause.

I have used my best efforts to frame an Act that will, as far as possible, tend to prevent the growing up of a municipal debt. Strong and direct as are the provisions of the new Constitution, on this point they are not, in my opinion, sufficient. The best way to keep a city out of debt is to follow the rule that a prudent man will follow to keep out of personal debt—that is by carefully guarding against the small beginnings.

I have long observed that no Constitutional or legal check or restriction upon the creation of a debt will prevent the final recognition and payment of floating liabilities, once under any pretence, and no matter how illegally contracted. I have also observed that when repudiation begins in America, legal debts stand upon no better footing than illegal ones, and that until it does begin, illegally contracted debts, when the public have had value received, are sure to be recognized, and somehow validated. To prevent a debt growing up I know of no plan so sure as that of making deficits impossible. This I have endeavored to do by restricting all expenditures to limited and fixed sums; by prohibiting general appropriations, and making them all specific; by guarding both contracts and disbursements more carefully, and lastly, by revising the McCoppin or "one-twelfth" Act, and prohibiting the passage of any appropriation of money until the Auditor has certified that the appropriation can be made without encroaching upon its provisions.

The Police Court is re-organized substantially as the law exists, and another Police Court may be created by ordinances of the Municipal Council passed by vote of three-fourths of the members elected to both Houses of the Municipal Legislature. But the Judges are to be appointed, and not elected as now. The objection to the criminal classes having a vote upon the tribunal that is to sit in judgment over them seems to me to be too obvious to require explanation or comment. The Justices' Court Act has not been materially changed, except that the number has been reduced from five, as now, to three, which, I believe, is ample to discharge the duties devolving upon that Court.

I have changed the Public Administrator from an elective office as now, and provided for his appointment by the Superior Court, of which he is an officer, and placed under the control of the Court, the same as other Administrators. He will have a fixed salary, and the commissions collected from estates will go into the treasury. When he goes out of office he will transfer all estates in course of administration to his successor.

I have left the Assessor's office substantially as now, and made the upper branch of the Municipal Council a Board of Equalization. It was suggested to me that a Board of Assessors, to come from the districts, had worked well in certain Eastern cities, and might be desirable here. My observation and experience have not led me to a favorable opinion of district representation for cities, either in its own Boards or bodies, or in the State Legislature. I have found a disposition on the part of representatives elected from districts to barter away the general interests of the public for some imaginary advantage to their particular district—and which supposed advantage to the district very often proves, on examination, to be at last only some personal benefit to a few friends or some powerful or persistent individuals in the district, and not to the district at large. I have, therefore, left the assessment and the equalization of taxes as I would leave representation in most other matters, had I my way, with officers elected from the city at large, and without respect to the place of their residence.

I have made no material change in the Special Election law, as passed in 1877-8; but, as the provision for Precinct Boards of Registration never met with my entire approval, I may, in the Legislative draft, leave that Board out, thus requiring all citizens to register at the central office, which I think the best system.

The salaries and wages of officers and employees I have not interfered with to any great extent, except in the case of the Police force, which I think too high. I know of no test for the value of services except such sum as will procure competent men to perform them; and the salaries I have named, and probably even less, will, in my judgment, do that.

As for the amount of money to which the various departments are restricted in the annual expenditure, I have in most cases left them in blank, to be filled up after more careful inquiry as to their wants. I am satisfied from the imperfect data that I can obtain that in many, if not in most instances, the amounts now allowed by law are, under one pretence or another, greatly exceeded. I have, however, restricted in terms the annual tax levy from exceeding one dollar on the one hundred of property valuation, exclusive of State taxation, and have limited the schools to twenty-five cents. All of these figures are, of course, subject to revision after the draft has been published and criticised, as it should be, by citizens and the press, and which I have no doubt will point out many errors, defects and oversights, and by the light of which criticism I am willing and hope to be able to learn as much as anybody. I shall then, in preparing a second and more careful paper, try to correct and improve it still more from the suggestions of citizens and more mature reflection, so that it may be fit to be presented to the Legislature for the consideration of that body.

I am, gentlemen, your very obedient and humble servant,

JOHN F. SWIFT.

*San Francisco, December 9th, 1879.*

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California Laws, statutes etc.

CHAPTER CXXIV. [Statutes 1880]

An Act to provide for the organization, incorporation, and government of merged and consolidated cities and counties of more than one hundred thousand population, pursuant to the provisions of section seven, of article eleven, of the Constitution of this State.

[Approved April 24th, 1880.] [Read at the 23d  
session of the Legislature]  
The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. Any city and county government of more than one hundred thousand population, which has been heretofore merged and consolidated into one municipal government, shall, from and after the passage of this Act, be deemed to be and be incorporated and organized thereunder, and any such city and county government which may hereafter be so merged and consolidated, shall be organized, incorporated, and governed by and under the provisions of this Act.

SEC. 2. Every such city and county government mentioned in section one shall, after its organization under this Act, remain and continue to be a body politic and corporate in name and fact by the same name it held at the time of its organization hereunder, and by such name shall have perpetual succession, may sue and defend in all Courts and places, and in all matters and proceedings whatever, and may have and may use a common seal, and the same may alter at pleasure, and may purchase, receive, and enjoy real and personal property, and sell, convey, and dispose of the same for the common benefit. The boundaries of such cities and counties heretofore organized shall, until altered by law, be and remain the same as before its organization under this Act, and such cities and counties shall continue to have, hold, and enjoy all its public buildings, land, and property, real and personal, rights of property, rights of action, suits and actions, money, revenue, income, books, documents, records, archives, claims, demands, and things in possession and action of every nature and description, and shall be liable to all its debts, liabilities, dues, duties, and obligations as fully as if no change or reorganization under this Act had ever occurred. Any such corporation heretofore organized and organizing, under this Act, shall be deemed and construed to be a continuation of the former one, with all its rights and liabilities remaining in full force and effect. Suits and actions may be brought in the name of such city and county for the recovery of any property, money, or thing belonging thereto, or the enforcement of any rights or contracts with such city and county, either before or after its reorganization hereunder, and all existing suits, actions, and proceedings in the Courts shall be carried on by or against the reorganized municipal corporation as if no change had been made. And from any judgment rendered against such city and county in any Court, an appeal may

be taken by such city and county, where an appeal is allowed by law, without the giving of any appeal bond or undertaking, on complying with the other requisites prescribed by law.

SEC. 3. All the existing provisions of law defining the duties of county officers, excepting those relating to Supervisors and Boards of Supervisors, so far as the same are not inconsistent with, repealed, or altered by the provisions of this Act, shall be considered as applicable to officers of such cities and counties, acting or elected under this Act. Provision shall be made from the revenues of any city and county heretofore existing and reorganized under this Act, for the payment of the legal indebtedness of the municipal incorporation to which such reorganized city and county shall succeed, or of which it is a reorganization, as well as for that of such city and county after its organization, and all funding Acts and other laws providing for the payments of principal and interest on any funded debt of such former corporation shall remain in force. The taxes which may be levied and collected in such city and county shall be uniform throughout the same.

SEC. 4. There shall be elected by the qualified voters of such city and county, at the next general State election to be held on the first Tuesday after the first Monday of the month of November, eighteen hundred and eighty, and at the general State election held every two years thereafter, the following officers, viz.: A Mayor, Sheriff, Auditor, Tax Collector, Treasurer, County Clerk, Recorder, District Attorney, City and County Attorney, Coroner, Surveyor, Superintendent of Streets, twelve School Directors, six Justices of the Peace, Public Administrator, Police Judge, who shall hold office for two years. The terms of such officers shall commence on the first Monday after the first day of January next following their election. Also, twelve Aldermen, in the manner, and who shall hold office as provided in section eleven of this Act, and twelve Delegates, who shall hold office as provided in section thirteen of this Act.

SEC. 5. All officers of such city and county elected in the year eighteen hundred and seventy-nine, either under general or special laws, and holding office at the time of the passage of this Act, and whose office is not abolished by this Act, shall hold their respective offices until their respective successors are elected and qualified, as provided in this Act; and the Board of Supervisors of such city and county shall divide such city and county into twelve wards (the boundaries of such wards shall be the same as at present in such city and county), and notify the Mayor of such city and county of such division on or before the tenth day of June, eighteen hundred and eighty; and within twenty days thereafter the Mayor of such city and county shall appoint twelve Delegates, one from each of the wards into which such city and county shall have been so divided; and the said Delegates so appointed shall constitute the Board of Delegates provided for in this Act. The Board of Supervisors of such city and county shall, on the first day of July, eighteen hundred and eighty, organize

as the Board of Aldermen provided for in this Act; and the said Delegates so appointed shall, at the same time, organize as the House of Delegates provided for in this Act; and the said two Boards shall constitute the Municipal Council provided for in this Act; and the members of said Council shall hold their respective offices till their respective successors are elected and qualified, as provided in this Act; and the said Municipal Council may hereafter, from time to time, change the boundaries of such wards so as to equalize the population of the same respectively as far as practicable.

SEC. 6. The Mayor, Sheriff, County Clerk, County Recorder, Treasurer, District Attorney, Auditor, Tax Collector, Assessor, City and County Attorney, Superintendent of Streets, and Surveyor, shall keep public offices, which shall be kept open for the transaction of business every day in the year, except Sundays, Christmas, New Year's, fourth of July, Thanksgiving, the twenty-second of February, and on any days during which a general election shall be held, between the hours of nine o'clock A. M. and five o'clock P. M.

SEC. 7. Whenever vacancies occur in any of the elective offices of such city and county, and provision is not otherwise made in this or some other Act for filling the same, the Mayor shall appoint, subject to the confirmation of the Board of Aldermen, a person to discharge the duties of such office until the next election, when the vacancy shall be filled by election for the unexpired term. All persons so appointed shall, before entering upon their duties, take the oath of office, and give bonds as required by law.

SEC. 8. No fees or compensation to be paid out of the treasury, other than those expressly allowed in this Act, shall be allowed or received by any officer of such city and county, or of any district, or other subdivision thereof; nor shall any allowance or provision be made for them, or any of them, at the public expense, beyond the fixed compensation herein provided under the name of office rent, fuel, lights, stationery, contingencies, extra services, or otherwise, except the compensation or percentage allowed to the Tax Collector and to the Assessor in the collection of poll taxes, and except that the necessary and proper books, stationery, and official blanks may, at the discretion of the Municipal Council, be purchased and supplied for all the Courts of such city and county, its officers, Municipal Council and other Boards, and officers, the expense whereof, when the amount in each particular case shall have been previously authorized and fixed by the Municipal Council, may be paid out of the General Fund, upon demand upon the treasury duly audited, as in this Act provided.

SEC. 9. All officers of such city and county must, before they can enter upon their official duties, give a bond as required by law. The bonds and sureties of such officers must be approved by the President of the Board of Aldermen, Auditor, and a Judge of the Superior Court in and for such city and county. When the amount of such official bond is not fixed by law, it shall be fixed by the Municipal Council. No banker, residing or doing business in such

city and county, nor any such banker's partner, clerk, employé, agent, attorney, or father, nor a brother, shall be received as surety for the Treasurer, Mayor, Sheriff, Auditor, or any officer having the collection, custody, or disbursement of money. No person can be admitted as surety on any such bond, unless he be worth, in fixed property, including mortgages, situated in such city and county, the amount of his undertaking over and above all sums for which he is already liable or in any manner bound, whether as principal, indorser, or security, or whether such prior obligation or liability be conditional or absolute, liquidated or unliquidated, certain or contingent, due or to become due. All persons offered as sureties on official bonds must be examined on oath touching their qualifications. The official bond of the Auditor shall be filed and kept in the office of the Clerk of such city and county. All other official bonds shall be filed and kept in the office of the Auditor; *provided*, that the bonds and sureties of the Mayor must be approved by the Chairman of the House of Delegates, Auditor, and a Judge of the Superior Court in and for such city and county; and that the bonds and sureties of the Auditor must be approved by the President of the Board of Aldermen, the Chairman of the House of Delegates, and a Judge of the Superior Court in and for such city and county.

SEC. 10. The legislative power of such city and county shall be vested in a body to be styled the "Municipal Council" of such city and county, and shall be composed of two Boards or Houses of Legislation, one to be called the "Board of Aldermen," and the other the "House of Delegates."

SEC. 11. The Board of Aldermen shall consist of twelve persons, to be elected by general ticket from the city and county at large, the members of which shall hold office for the term of four years, to commence on the first Monday after the first day of January next following their election, except that of the Aldermen, who are elected at the first election under this Act, the six receiving the smallest number of votes shall hold their office for two years only; so that thereafter only six shall be elected every two years. In case of a tie vote at such first election, the question of which Aldermen shall hold the full and which the short term, shall be determined between the candidates so tied by lot. The Aldermen shall receive each a salary of twelve hundred dollars a year, payable in monthly installments out of the General Fund.

SEC. 12. The Board of Aldermen shall appoint a Secretary, with a salary not to exceed two hundred dollars a month, who shall keep the records of said Board. He shall hold office during the pleasure of the Board. He shall have power to administer oaths and affirmations in all cases, and to certify and authenticate copies of all records, papers, and documents in his official custody, and shall perform any other services required by the Board.

SEC. 13. The House of Delegates shall consist of twelve persons, to be elected every two years, one each by the qualified electors of the respective wards, into twelve of which

such city and county shall be divided for such purpose. The Delegates shall hold office for the term of two years, to commence on the first Monday after the first day of January next following their election, and shall receive each a salary of twelve hundred dollars a year, payable monthly out of the General Fund.

SEC. 14. The House of Delegates may appoint a Clerk, who shall keep their records and hold office during their pleasure. He shall have a salary not to exceed two hundred dollars a month; shall have power to administer oaths and affirmations, and to certify and authenticate all records, documents, and papers in his official custody. He shall perform any other service required of him by the House.

SEC. 15. Any vacancy occurring in either Board shall be filled by the Mayor; and the person appointed to fill such vacancy shall hold office till the next election by the people, and until his successor is qualified.

SEC. 16. Every member of the Board of Aldermen shall be a qualified voter, at least twenty-five years of age, and shall have been a citizen of the United States and of this State, and a resident of such city and county for three years next before his election or appointment.

SEC. 17. Every member of the House of Delegates shall be a qualified voter, at least twenty-five years of age; shall have been a citizen of the United States and of this State, and a resident of such city and county at least two years, and of the ward from which he is elected or appointed at least one year next before his election or appointment.

SEC. 18. Every member of either branch of the Municipal Council shall, at all times during his incumbency of said office, possess the following qualifications: He shall not be directly or indirectly interested in any contract with such city and county, or any department or institution thereof. He shall not have been convicted of malfeasance in office, bribery, or other corrupt practices or crimes. Any member who fails to possess, or who shall at any time during his term of office cease to possess any of the qualifications mentioned in this Act as a qualification, shall thereby forfeit his seat in the Board or House to which he belongs, and the vacancy shall be filled as in other cases. If any member of either branch absent himself from the State, or neglect to attend the meeting of the Board or House to which he belongs, for a period of thirty days, his office shall be declared vacant by said Board, and a successor must be appointed, to hold till the next election by the people, as provided in other cases.

SEC. 19. Each Board or House shall elect its own officers, except as to the presiding officer of the Board of Aldermen. The Mayor shall preside at all the sessions of the Board of Aldermen, without the right to vote. In his absence, during any session, the Board shall appoint one of its members as President pro tempore, who shall, however, have the same right to vote as other members. Each House shall be the judge of the election returns and qualifications of its own members, and may determine the rules of its own proceed-

ings, except as herein provided. Each House shall keep a record of its acts and allow the same to be published, and the yeas and nays on any question shall, at the request of any member, be entered on the Journal of the House; may arrest and punish by fine, not exceeding five hundred dollars, or imprisonment as provided by ordinance, not exceeding thirty days, or both, any person not a member who shall be guilty of disrespect to the Board or House by disorderly or contemptuous behavior in its presence during its sessions; may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members elect, may expel a member.

SEC. 20. The House of Delegates shall elect one of their own number presiding officer of said House, who shall be designated as the "Chairman" thereof. A majority of the members of either House shall constitute a quorum to do business, and no regulation, resolution, ordinance, or order of either House can pass without the concurrence of a majority of all the members elected or appointed to such House; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as the House or Board may provide.

SEC. 21. All sessions, acts, and resolutions of each House shall be public. Neither House shall, without the consent of the other, adjourn for more than seven days at any one time, nor to any other place than that in which the two Houses may be sitting.

SEC. 22. No member of the Municipal Council shall, during the time for which he is elected, be eligible or appointed to any other office under the city and county, except such offices as may be filled by election by the people; nor shall any member, while such, be an employé of such city and county, or any Board or department thereof, or of either branch of the Municipal Council, in any capacity whatever, and no compensation shall be audited or paid for services as such officer or employé; and no act, ordinance, or resolution shall ever be passed whereby any member of either House shall become the disbursing officer of such city and county, or any Board or department thereof, or pay out any of its money upon any pretense whatever.

SEC. 23. No member of the Municipal Council, or of the Board of Education, or any officer of such city and county, or of any ward thereof, shall have any power to contract any debt or liability whatsoever against such city and county, nor shall the people, or taxpayers, or any property therein, ever be liable to be assessed for, or on account of any debt or liability hereafter contracted, or attempted to be contracted, in contravention of this Act.

SEC. 24. The Municipal Council shall appoint a joint committee of five, three from the Board of Aldermen, and two from the House of Delegates, to be denominated the "Finance Committee," which committee may, at any time, and shall, whenever required by the Municipal Council, or either branch thereof, investigate the transactions and accounts

of any and all officers appertaining to the government of such city and county having the collection, custody, or disbursement of public money, or having the power to approve, allow, or audit demands on the Treasurer, and report thereon to the Municipal Council. Said committee shall have full power to send for all persons and papers, and enter into, examine, inquire, and investigate all offices and places, to administer oaths and affirmations, to examine witnesses, and compel their attendance by subpoena and attachment for contempt, and the production of records, books, and papers, and may imprison in the County Jail any person refusing to appear or testify, as well as any officer or person failing or refusing obedience to the orders to show records, papers, or books, or to testify when required so to do. The Sheriff or any policeman of such city and county shall enforce all orders of said committee, and attend upon it in like manner as upon Courts of record. The Mayor may be present and participate in such investigations.

SEC. 25. The Municipal Council shall meet on the first Monday after the first day of January, and on the first Mondays of April, July, and October, of each year, and at such other times as required by law, and may be specially convened by the Mayor as herein provided.

SEC. 26. No ordinance shall be passed except by bill, and no bill shall be so amended in its passage as to change its original object. No bill shall contain more than one subject, which shall be expressed by its title. On the final passage of all bills the vote shall be by "yeas" and "nays" upon each bill, separately, and the names of the members voting for and against the same shall be entered on the Journal. Bills may originate in either House, and no bill shall be passed by either House except by a majority vote of all the members elected or appointed to either House.

SEC. 27. No amendments to bills by either House shall be concurred in by the other except by a vote of a majority of all the members elected or appointed thereto, taken by yeas and nays, and the names of those voting for and against recorded upon the Journal thereof; and reports of committees of conference shall be adopted by either House only by the vote of a majority of all the members elected thereto, taken by "yeas" and "nays," and the names of those voting recorded upon the Journals.

SEC. 28. No ordinance shall be revived, reenacted, or amended, by mere reference to its title, but such ordinance or section shall be set forth at length, as if it revived, reenacted, or amended.

SEC. 29. When a bill is put upon its final passage in either House, and failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be taken up, and the subject finally disposed of at the next meeting of the Council, unless such House by a two-third vote decides to act upon such reconsideration at the same meeting.

SEC. 30. No bill shall become an ordinance until the same shall have been signed by the presiding officer of each of the

two Houses in open session, in authentication of its adoption by such House. In signing such bill for authentication, the presiding officer shall call the attention of the House to the bill, and that he is about to sign it, and if any member request, the bill shall be read at length for information as to its correctness as enrolled. If any member object that the bill is not the same in substance and form as when considered and passed by the House, such objection shall be passed upon, and, if sustained, the presiding officer shall withhold his signature, and the bill shall then be corrected and finally disposed of, and signed before the House proceeds to any other business.

SEC. 31. No general appropriation act or authorization shall ever be passed, but all appropriations shall be for the specific amount of the claim to be paid, and no more; and each ordinance or resolution authorizing the payment of money shall contain one claim only, which shall be expressed in the title. Every ordinance or resolution of the Municipal Council providing for any specific improvement, the granting of any privilege, or involving the lease or appropriation of public property, or the expenditure of public moneys (except for sums less than five hundred dollars), or levying tax, or assessment, and every ordinance or resolution imposing a new duty or penalty shall, after its introduction in either House, be published, with the "yeas" and "nays," in the newspaper doing the city and county printing, at least five successive days before final action upon the same by the House in which it was introduced; and in case such ordinance or resolution shall be amended before final passage in said House, then the bill, as amended, shall be so published, in the same manner before final action by such House thereon; and every such ordinance, after the same shall have passed both Houses, shall, before it takes effect, be presented to the Mayor for his approval. If he approves, he shall sign it; if not, he shall return it within ten days to the House in which the same originated, with his objections in writing. Said House shall then enter the objections on the Journals, and publish them in the newspaper doing the city printing. At the next stated meeting thereafter said House shall proceed to reconsider such bill. If, after such reconsideration, it again passes both Houses by the votes of nine of the members elected or appointed to each House voting therefor, it shall become a law, notwithstanding the Mayor's objections. Should any such ordinance or resolution not be returned by the Mayor within ten days after he receives it, it shall become valid, the same as if it had received his signature. Where a claim against the treasury amounts to more than five hundred dollars, it shall not be lawful to divide or break up the same into several sums of less than that amount, so as to evade the provisions of this section concerning claims; and any effort or attempt to accomplish such unlawful division, or breaking up of a claim, shall be deemed as to every member of the Municipal Council, or other officer consenting thereto or aiding the same, a misdemeanor in office, and be cause for his removal. All ordinances authorizing the payment of any

money out of the treasury, or any claim thereon, shall be referred to the appropriate standing committee of the House where the bill is introduced, who shall present the same to the Auditor, in order that he may certify that there is sufficient money in the proper fund out of which such claim can lawfully be paid, and that such appropriation can be made without violating the provisions of this Act; and until the Auditor certifies in writing, signed by his name, that there is sufficient money in the proper fund, and that the authorization can be made without violating the provisions of this Act, no further proceedings shall be had with such bill. It shall be the duty of the Auditor, with reasonable promptness, to ascertain the facts, and to give the certificate when the facts warrant him in doing so, and not otherwise.

SEC. 32. The powers of the Municipal Council, and all other Boards, Commissioners, and officers, are those specially named in this Act, and they are prohibited from exercising any other.

SEC. 33. The enacting clause of ordinances shall be in the following terms: "The Municipal Council of the City and County of —, hereby ordains as follows."

SEC. 34. The Municipal Council shall further have power by regulation or ordinance:

*First*—To provide for the security, custody, and administration of all property of such city and county, and to purchase land required for municipal purposes without any power to sell or incumber the same, or lease any part thereof, for more than three years; except, however, that such personal property belonging to the fire, street, or other departments, as they deem unsuited to the uses and purposes for which the same was designed, or so much worn and dilapidated as not to be worth repairing, may be sold or exchanged.

*Second*—To provide for cases omitted in this Act, and in conformity with the principles adopted in it, for opening, altering, extending, constructing, repairing, or otherwise improving public streets and highways, at the expense of the property benefited thereby, without any recourse in any event upon such city and county or the public treasury for any portion of the expense of such work, or any delinquency of the property holders or owners.

*Third*—To provide for lighting the streets. But no contract for lighting streets or public buildings shall ever be made for more than one year in duration; nor shall any contract to pay more for gas or other illuminating material than is legally charged to ordinary consumers, or than the usual market rates, be valid.

*Fourth*—To provide water for municipal purposes.

*Fifth*—To regulate market houses and market places.

*Sixth*—To provide for inclosing, improving, and regulating all public grounds of such city and county.

*Seventh*—To prohibit the erection of wooden buildings or structures within any fixed limits where the streets have been established and graded, or ordered to be graded, or to restrict and limit the height of such buildings or structures.

To regulate the sale, storage, and use of gunpowder, and to restrict the limits within which may be manufactured or kept giant powder, dynamite, nitro-glycerine, or other explosive or combustible materials and substances, and the maintenance of acid works; and make all useful regulations in relation to the manufacture, storage, and transportation of all such substances, and the maintenance of acid works, slaughter houses, brick burning, tanneries, and all other manufactures and works of every description that may jeopardize the public safety, and to exclude them from the city and county when necessary, or to restrict them or any of them to a district. To make all necessary regulations for protection against fire, as well as such rules and regulations concerning the erection and use of buildings as may be necessary for the safety of the inhabitants.

*Eighth*—To permit the laying down of railroad tracks and the running of cars thereon along any street, or portion of street, for the sole purpose of excavating and filling in a street, or portion of a street, or adjoining lots, and for such limited time as may be necessary for the purposes aforesaid, and no longer.

*Ninth*—To determine the fines, forfeitures, and penalties that shall be incurred for the breach of regulations established by the said Municipal Council, and also for a violation of the provisions of this Act, where no penalty is affixed thereto or provided by law; but no penalty to be imposed shall exceed the amount of one thousand dollars, or six months imprisonment, or both. And every violation of any lawful order or regulation, or ordinances of the Municipal Council, is hereby declared a misdemeanor or public offense, and all prosecutions for the same shall be in the name of the people of the State of California.

*Tenth*—To regulate and provide for the employment of prisoners sentenced to labor on the public works of such city and county, and to maintain and regulate city and county jails and prisons, with manufacturing or other laboring establishments or appliances connected therewith.

*Eleventh*—To provide a suitable office and jury room, and dead house or morgue, with the furniture necessary to enable the Coroner to efficiently discharge the duties of his office, and to make the necessary appropriation therefor; and to audit and pay, for the necessary expenses of maintaining the morgue and offices attached, such sum as may be necessary, not to exceed seventy-five dollars per month, out of the General Fund.

*Twelfth*—To maintain and regulate a Home of the Inebriate in its discretion.

*Thirteenth*—To provide and maintain a City Prison.

*Fourteenth*—To maintain and improve the city cemeteries, and to pay out of the General Fund a keeper thereof, to be appointed by the Board of Health, at a salary not to exceed one hundred dollars a month.

*Fifteenth*—To license and regulate hackney carriages and other public passenger vehicles, and to fix the rates to be charged for the transportation of persons, baggage, goods,

merchandise, and property, or either, thereon; and to license and regulate all vehicles used for the conveyance of merchandise, earth, and ballast, or either; and also to license and regulate persons and parties employed in conveying baggage, property, and merchandise, or either, to or from any of the wharves, slips, bulkheads, or railroad stations, within the limits of such city and county; to fix and establish the amount of every license paid into the city and county treasury for city and county purposes; to provide for the summary removal and disposition of any or all vehicles found in the streets, highways, and public squares during certain hours of the day or night, to be designated by the Council; and in addition to all other remedies, to provide by regulation for the sale or other disposition of such vehicles; to protect the public from injury by runaways, by punishing persons who negligently leave horses or carriages in the street; to prescribe the width of the tires of all drays, trucks, and carts, in accordance with the weight to be carried thereby, for the preservation of the streets and highways.

*Sixteenth*—To regulate, license, and control the business of keeping intelligence offices, prescribe the method of conducting said business, and to enforce, by fines and penalties, the payment of the license, and any violation of the regulation touching said business. To license and regulate pawn-brokers, and to enact regulations to protect the public in dealing with them.

*Seventeenth*—To fix the fees and charges to be collected by the Surveyor of such city and county for certificates of surveys for buildings or other purposes, and to provide for a sufficient corps of Deputy Surveyors to perform such work, to be paid from such fees only; also, to regulate the fees to be charged by the Superintendent of Streets, the County Recorder, and any and all other municipal officers, where their fees are not otherwise fixed by law, and compel the payment of all such fees and charges into the city and county treasury into the proper fund, in accordance with the provisions of this Act.

*Eighteenth*—To license and regulate, for the purposes of city and county revenue, all such callings, trades, and employments as the public good may require to be licensed and regulated, and as are not prohibited by law; to provide for and enforce, with penalties or otherwise, the collection and due payment into the city and county treasury of all moneys so due or raised, and to make all needful rules and regulations to govern the official conduct and duties of the Collector of Licenses.

*Nineteenth*—To provide and pay for the construction and repair of hydrants, fire-plugs, cisterns, and pumps in the streets.

*Twentieth*—To allow and order paid out of the General Fund a sum not to exceed three thousand dollars in any year, for the celebration in such city and county of the anniversary of our National Independence.

*Twenty-first*—To allow and order paid out of the General Fund, for the election expenses of such city and county, not

to exceed forty dollars for each election precinct, for each election in said city and county.

*Twenty-second*—To provide ways and means for the prosecution of the claims of such city and county to any land or other property or right claimed by such municipality.

*Twenty-third*—To provide for the appointment by the Mayor of a Weigher of Coal, without salary, and to regulate and define his duties, and establish rates of charges to be collected from persons requiring his services, and for his compensation from such rates and charges alone, and with no claim upon such city and county.

*Twenty-fourth*—To authorize and direct the summary abatement of nuisances; to make all regulations which may be necessary or expedient for the preservation of the public health and the prevention of contagious diseases; to provide fines and penalties against individuals who may be guilty of maintaining any nuisances, and enforcing the same until such nuisance be removed or abated; to provide by regulation for the prevention and summary removal of all nuisances and obstructions in the streets, alleys, highways, and public grounds of such city and county, and to prevent or regulate the running at large of dogs, and to authorize the destruction of the same when at large contrary to ordinance.

*Twenty-fifth*—To prohibit, suppress, regulate, or exclude from certain limits all houses of ill-fame, prostitution, and gaming; to prohibit, suppress, regulate, or exclude from certain limits all occupations, houses, places, pastimes, amusements, exhibitions, and practices which are against good morals, contrary to public order and decency, or dangerous to the public safety.

*Twenty-sixth*—To require, by ordinance, all contractors for street work, or other persons lawfully undertaking to improve, grade, or alter streets or public highways, to erect fences or barriers, to keep lights at night, and to take other necessary precautions to protect the public from damage, loss, or accident by reason of such grading, alteration, or improvement, and to fix and prescribe penalties for the violation of the provisions of such ordinance.

*Twenty-seventh*—To provide for the safe keeping and disposition of lost, stolen, or unclaimed property of every kind, which may at any time be in the possession or under the control of the police of such city and county.

*Twenty-eighth*—To regulate, and, when necessary, to suppress all public demonstrations and processions which interfere with public traffic.

*Twenty-ninth*—To appoint a Fire Marshal. Such appointment shall be made on the nomination of the Board of Fire Underwriters of such city and county, if such Board shall exist therein. If more than one such Board shall exist therein, then upon the nomination of the Board which shall have been longest organized. His salary shall be fixed and paid by such Board of Fire Underwriters. Such Fire Marshal shall, before entering upon the office, take and subscribe the oath of office, and execute a bond to the State of California in the sum of five thousand dollars, with two or more sureties,

to be approved by a Judge of the Superior Court, for the faithful discharge of his duties. Any person aggrieved by any misconduct of such Marshal, or his deputy, may bring an action in his own name upon such official bond, which bond shall be filed in the office of the County Clerk. It shall be the duty of such Fire Marshal to attend all fires which may occur in such city and county, with a badge of office conspicuously displayed. He shall take charge of and protect all property which may be imperiled at any such fire, and safely keep the same under his possession and control until satisfactory proof of ownership be made thereto; and shall, as far as practicable, prevent such property from being injured at such fire, and direct, when in his opinion it shall be necessary, the removal of goods, merchandise, and other property to a place of safety. He shall be authorized and empowered to exercise the functions of a peace officer of such city and county. Any person who shall willfully hinder or obstruct such officer in the lawful discharge of his duties, shall be deemed guilty of a misdemeanor; *provided, however,* that nothing herein contained shall be so construed as to authorize such Fire Marshal to interfere in any manner with the proper discharge of the lawful duties and authority of any Chief Engineer of any fire department of such city and county. It shall be the duty of such Fire Marshal to institute investigations into the cause of such fires as occur in such city and county; and for this purpose he shall have power to issue subpœnas and administer oaths, and compel the attendance of witnesses before him by attachment or otherwise. All subpœnas issued by him shall be in such form as he may prescribe, and shall be directed to and served by any police officer, or by any peace officer of such city and county. Any witness who refuses to attend or testify in obedience to such subpœna, shall be deemed guilty of contempt, and be punishable by him as in cases of contempt in Justices' Courts in civil cases. He shall make a written report of the testimony to the District Attorney, and institute criminal prosecutions in all cases in which there appears to him to be a reasonable and probable cause for believing that a fire has been caused by design. It shall be the duty of such Fire Marshal to aid in the enforcement of the fire ordinances of such city and county, and for this purpose he is duly authorized to visit and examine all buildings in process of erection or undergoing repairs, and to institute prosecutions for all violations of the ordinances of such city and county which relate to the erection, alteration, or repairs of buildings and the prevention of fires. He shall exercise such additional powers as may be conferred upon him by the ordinances of such city and county to enable him fully to carry out the object and purpose of his appointment, and for the prevention of fires. He shall have power to appoint a deputy, who may exercise all the powers and perform all the duties of such Marshal. The salary of such deputy shall be paid in the same manner as the Fire Marshal. Any person who saves from fire, or from a building endangered by fire, any property, and who willfully neglects for two days to give

notice to such Fire Marshal, or to the owner of such property, of his possession thereof, shall be deemed guilty of grand or petty larceny, as the case may be, according to the value of said property; and any person who shall be guilty of false swearing in any investigation under this subdivision, shall be deemed guilty of perjury, and, upon conviction thereof, shall be punished therefor as in other cases of perjury. Such Fire Marshal may be removed at any time by the same power or powers that appointed him. And in case of the removal, resignation, or death of such Fire Marshal, his successor shall be appointed in the same manner as hereinbefore provided. Such Fire Marshal is hereby authorized and empowered to appoint one or more persons during the time of fire, for the purpose of saving and protecting property at such fire, and until it shall be delivered to the owner or claimant thereof, and such person or persons so appointed shall have during such period the authority and power of a policeman of such city and county, and shall be known as the Fire Marshal's police; and each of such persons shall wear while in the discharge of his duty, conspicuously displayed on his person, such badge or device as such Fire Marshal shall designate. No person shall be entitled to any property in the hands of such Fire Marshal, saved from fire, until satisfactory proof of ownership be made, and until the actual expenses incurred by such officer for the preservation and keeping of the same shall be paid to him by the owner or claimant of said property; and in case of dispute as to the amount of such expenses, said dispute to be determined by the Justices' Court of such city and county. Such Fire Marshal is hereby duly authorized and empowered to hold and sell, or cause to be sold at public auction, all property in his possession saved from a fire or fires, for which no owner can be found, after advertising the same in two daily newspapers published in such city and county for the period of thirty days; *provided, however,* that if, upon application of such Fire Marshal to the Police Judge, it shall appear that such property is perishable, such Judge may order such Fire Marshal to make sale thereof upon such notice as in the opinion of such Judge may be reasonable. The proceeds of all such sales, together with an account thereof, after deducting all expenses, shall be by him deposited with the Treasurer of such city and county, to be held by such Treasurer, subject to the claim of the owner of such property. Such Fire Marshal shall, from time to time, file with the County Clerk of such city and county, under oath, a statement and description of all property in his possession, or under his control and sold by him, together with the amount of money by him deposited with the Treasurer of such city and county.

*Thirtieth*—To maintain a fire alarm and police telegraph in such city and county.

*Thirty-first*—To require the owners of lots to prevent sand from drifting, being blown or otherwise moved therefrom, into or deposited upon any paved, planked, or macadamized street, alley, place, park, thoroughfare, or other public prop-

erty, and to enforce all such regulations by sufficient fines and penalties.

*Thirty-second*—To maintain, regulate, govern, manage, and carry on a House of Correction, and to utilize therein and thereby the labor of all prisoners committed to the Jail or House of Correction of such city and county, by the Police Courts and the Superior Courts; to prescribe rules of commitment and detention of prisoners, hours of labor, and all necessary rules, regulations, and restrictions, for the proper operation of said institution. All prisoners sentenced to a term in the County Jail, or House of Correction, shall be deemed to have been sentenced to labor during such term. The Judges of Police Courts and of the Superior Courts, in such city and county, may sentence criminals to the House of Correction when, in the judgment of such Judge, the criminal is too young to be sentenced to the State Prison, or when it is deemed better for the well being of the prisoner. No person shall be sentenced to imprisonment in the House of Correction for a shorter or longer term than that for which he might be sentenced in the County Jail of such city and county, or in the State Prison; and in no case whatever for a shorter term than three months, nor for a longer term than three years. No person who might be sentenced to imprisonment in the State Prison, shall be sentenced to imprisonment in the House of Correction if he is more than twenty-five years of age, if he has been once before convicted of a felony, or twice before convicted of petit larceny, nor unless, in the opinion of the Court, imprisonment in the House of Correction will be more for his interest than imprisonment in the State Prison, and equally for the interest of the public. The fact of a previous conviction may be found by the Court upon evidence introduced at the time of sentence. The Board of Aldermen of the city and county shall appoint a competent Superintendent for the House of Correction of such city and county, who shall also be Treasurer of said House of Correction, and who shall give good and sufficient bonds in a sum, and with sureties to be approved by said Board of Aldermen, for the faithful discharge of his duties, and to whom shall be paid a salary to be fixed by them, not to exceed two hundred and fifty dollars per month, payable monthly. Said Superintendent shall only be removed for just and sufficient legal cause, after a fair and impartial investigation of his case by said Board of Aldermen. He shall immediately after his appointment, and when authorized by said Board of Aldermen, appoint, subject to the approval thereof, such subordinates as may be deemed necessary by the Board of Aldermen, and the pay of such subordinates shall be fixed by said Board of Aldermen, not exceeding one hundred dollars per month to each party so appointed. The Superintendent shall manage the general interests of the institution; see that its affairs are conducted in accordance with the requirements of this Act, and of such by-laws as the Board of Aldermen may from time to time adopt for the orderly and economical management of its concerns; to see that strict discipline is maintained therein; to provide

employment for the inmates; adjust and certify all claims against the institution; and all by-laws made by said Board of Aldermen for the management of said institution, and not contrary to the laws of this State, shall be binding in all respects upon said Superintendent, officers, and inmates: and said Superintendent shall, each year, prepare and submit, under oath, to the Board of Aldermen, a report of the concerns of said institution. The Superintendent shall reside at the House of Correction, have charge of its inmates and property, and be its Treasurer; keep accounts of all his receipts and expenditures, and of all such property, and account in such manner as the said Municipal Council may require, and hold all books and papers open to their inspection.

*Thirty-third*—To maintain and regulate an Industrial School, for the detention, management, reformation, education, and maintenance of such children, under the age of eighteen years, as shall be committed or surrendered thereto by the Courts of such city and county, as vagrants, living an idle or dissolute life, or who shall be convicted by the Police or Superior Court of any crime or misdemeanor, or who, being tried for any crime or misdemeanor in such Court, shall be found to be under fourteen years of age, and to have done an act which, if done by a person of full age, would be a crime or misdemeanor; and said Council is empowered to regulate the commitment, detention, and discharge of such children, and to designate and prescribe the causes, terms, and conditions thereof, and the said Police Court and Superior Court shall have power to adjudge that such persons so convicted shall be so imprisoned; and persons so convicted shall remain at said Industrial School until he or she shall attain majority, unless a shorter time shall be fixed by said Court in the commitment. Such children shall be kept at such employments and be instructed in such branches of useful knowledge as may be suitable to their age and capacity. The Municipal Council may provide for binding out such children as apprentices during their minority, to learn proper trades and employments. There shall be a Superintendent of said Industrial School, to be appointed by the Board of Aldermen. He shall be deemed a public officer, whose salary shall not exceed two hundred and fifty dollars a month, and such other employés as may be necessary, with salary not to exceed one hundred dollars a month each. Such Police and Superior Court, or either of them, upon the application of the Board of Aldermen, and upon its certificate that it is expedient to do so, shall have power to discharge any child committed to said Industrial School, and who is not bound out as an apprentice, or adopted, and may in like manner discharge such child upon the application, in writing, of the parents or guardian of such child, who shall not have been bound out or adopted, and after ten days notice, in writing, to the Board of Aldermen, if, upon the hearing of the application, such Police Court or Superior Court shall consider that such discharge is expedient.

*Thirty-fourth*—To establish and maintain an Alms-house,

a City and County Hospital, a Small-pox Hospital, and such other institutions of the same character as are or may be necessary, and to perpetuate such institutions as may have been heretofore established in such cities and counties heretofore incorporated.

*Thirty-fifth*—To order paid out of the General Fund any final judgment against such city and county.

*Thirty-sixth*—To maintain, regulate, and govern a Public Pound, fix the limits within which animals shall not run at large, and appoint Pound-keepers, who shall be paid for out of the fines imposed and collected of the owners of impounded animals, and from no other source.

*Thirty-seventh*—To allow and order paid out of the Street Department Fund such sums as may be deemed necessary for improvement of streets bordering on the water front, and improvement of sewers and streets in front of public property.

*Thirty-eighth*—To allow and order paid out of the General Fund such sums as may be necessary for burying the indigent dead.

*Thirty-ninth*—To allow and order paid out of the General Fund such sums, not to exceed five thousand dollars in any one fiscal year, as may be deemed necessary for the employment of special counsel.

*Fortieth*—To enact such general and special police regulations for such city and county as shall secure the health, comfort, and security of the inhabitants, the safety and security of property and life, and to enforce the same therein.

*Forty-first*—To make needful rules and regulations for the administration, care, and maintenance and conduct of all departments and offices of such city and county, when not otherwise in this Act provided for, so as to secure more perfect safety of the public funds, and greater efficiency in all departments of the service, and to enforce the observation of such rules and regulations, and to authorize the appointment of such additional clerks, assistant deputies, and employés, as in their judgment may be necessary for the proper discharge of the duties of such offices and departments.

*Forty-second*—To appropriate the moneys derived from the revenue of such city and county to a General Fund, and such funds as have been heretofore or shall be hereafter established by law or the said Council, and as shall be necessary for the proper and economical administration of such city and county.

*Forty-third*—To establish, maintain, and regulate free public libraries and reading rooms, and to perpetuate such free libraries and reading rooms as may have been heretofore established in such cities and counties heretofore incorporated.

*Forty-fourth*—To provide, fit up and furnish, and provide with fuel, lights, stationery, and all necessary attendance, conveniences, and care, rooms convenient and accessible to the Courts, sufficient for the use and accommodation of a

Law Library and those who have occasion to use it, and approved by the officers having the government of said library, and to perpetuate and in the same manner provide for any Law Library now existing in such city and county, the use of which has been secured by law to the Courts, the Bar, and the city and county government. The Municipal Council shall have power, and it shall be their duty, to appropriate, allow, and order paid out of the proper fund such sums as may be necessary therefor.

*Forty-fifth*—To establish and maintain a free Medical Dispensary, and to perpetuate any such heretofore existing in such city and county.

*Forty-sixth*—To appoint a committee of five, three from the Board of Aldermen and two from the House of Delegates, to be denominated the “Building Committee,” to superintend the construction of buildings hereafter to be constructed for such city and county, or now in progress of construction therefor, and to appoint a Secretary for such committee, and to fix his compensation, and, if necessary, also to appoint a Superintendent and Architect therefor, fix their respective compensation, and to require of such Superintendent and Architect to execute bonds, with two sureties, conditioned for the faithful performance of their duty, in such sums as may be deemed necessary.

*Forty-seventh*—To provide for the levy, collection, and appropriation of revenue heretofore by law provided to be collected for the erection and completion of any public building in and for such city and county in the manner as heretofore provided by any law of this State for the levy, collection, and appropriation of the same.

SEC. 35. The Mayor shall be the chief executive officer; shall be a qualified voter, at least twenty-five years of age, and shall have been a citizen of the United States, and of this State, and a resident in such city and county for three years. It shall be his duty vigilantly to observe the official conduct of all public officers of such city and county, and to take note of the fidelity and exactitude, or the want thereof, with which they execute their duties and obligations, especially in the collection, custody, administration, and disbursement of the public funds and property, for which purpose the books, records, and official papers of all Boards, officers, and magistrates of such city and county, shall at all times be open to his inspection. He shall take especial care to see that the books and records of all such officers are kept in legal and proper form, and any official defalcation, or willful neglect of duty, or official misconduct which he may have discovered, or which shall have been reported to him, shall, at the earliest opportunity, be laid before the Municipal Council and before the grand jury, in order that the public interests shall be protected and the officer in default be proceeded against according to law. He shall, from time to time, give the Municipal Council information relative to the state of such city and county, and shall recommend to their consideration such measures as he may deem expedient in the interests of the city. He shall take care that the laws

of the State and the ordinances of the Municipal Council are enforced.

SEC. 36. Whenever and so long as the Mayor, from any cause, is unable to perform his official duties, the Board of Aldermen shall designate one of their number as Mayor pro tempore, who shall perform the same.

SEC. 37. The Mayor may, by due notice, call special sessions of the Municipal Council, and shall specially state to them, when assembled, the objects for which they have been specially convened, and their action shall be confined to such objects.

SEC. 38. The Auditor shall be the head of the finance department of such city and county, and as such required to be constantly acquainted with the exact condition of the treasury, and every lawful demand upon it. He shall keep a public office, and give his personal attendance there daily during the office hours fixed in this Act, and shall not follow or engage in any other occupation or calling while he holds said office. If he absents himself from his office during such office hours, except on indispensable official business or urgent necessity, he shall lose his salary for the day; and it shall be a part of his official duty to keep account of the times and occasions when he shall be so absent from duty. He shall be the general accountant of such city and county, and as such it shall be his duty to receive and preserve in his office all accounts, books, vouchers, documents, and papers relating to the accounts or contracts of such city and county; its debts, revenues, and other fiscal affairs, and to adopt a proper mode and manner of double entry book-keeping, and keep the accounts of such city and county, general and special, in a systematic and orderly manner. He shall state and render all accounts filed or kept in his office between the city and other persons or body corporate, except when otherwise provided by law or ordinance. He shall have power to administer oaths, and shall require settlements of accounts to be verified by affidavit whenever he thinks proper. He shall be responsible for all acts of his employés.

SEC. 39. The Treasurer of such city and county shall receive and safely keep in a secure fire-proof vault, to be prepared for that purpose, all moneys belonging to or which shall be paid into the treasury, and shall not loan, use, or deposit the same or any part thereof to or with any banker or other person, nor pay out any part of said moneys except on demands authorized by this Act, and after they have been duly audited. He shall keep the key of said vault, and not suffer the same to be opened except in his presence. At the closing up of the same each day he shall take an account and enter in the proper book the exact amount of money on hand, and at the end of every month he shall make and publish a statement of all receipts into and payments from the treasury, and on what account. If he violates any of the provisions of this section he shall be considered a defaulter, and shall be deemed guilty of a misdemeanor in office, and be liable to removal, and shall be proceeded against accordingly. If he loan or deposit said moneys, or any part thereof,

contrary to the provisions of this section, or apply the same to his own use, or the use of any other person, in any manner whatsoever, or suffer the same to go out of his personal custody, except in payment of audited demands upon the treasury, he shall be deemed guilty of a felony, and, on conviction thereof, shall suffer imprisonment in the State Prison for a period not less than three months nor more than ten years.

SEC. 40. The Treasurer shall keep the money belonging to each fund separate and distinct, and shall in no case pay demands chargeable against one fund out of moneys belonging to another, except as otherwise provided in this Act, without an express ordinance of the Municipal Council, which can only be made during or after the end of the third quarter of the fiscal year, by a vote of two-thirds of each House. The said Treasurer shall give his personal attendance at his public office, during the office hours fixed by this Act, and if he absent himself therefrom, except on account of sickness or urgent necessity during such office hours, he shall lose his salary for the entire day on which he was absent.

SEC. 41. The County Clerk of such city and county shall take charge of and safely keep, or dispose of according to law, all books, papers, and records which are or may be filed or deposited in his office, and of all the Courts of which he is Clerk; and he shall not allow any paper, files, or records to leave his custody, except when required by the Judges of the Courts, to be used by them or any of them.

SEC. 42. No Judge or officer of any Court shall make any order for the delivery by the County Clerk of such city and county, of any paper, files, or records in his custody, except bills of exceptions and statements on motion for a new trial; nor shall the Courts, or Judges thereof, have any power to make orders for the delivery of any certificate of incorporation, bonds, or other papers, filed with the said County Clerk. Whenever any of said papers are required for evidence in any of the Courts within such city and county, the County Clerk, or his deputies, shall produce the same, under subpoena or order of the Court, or furnish certified copies of the same on application, on payment to said Clerk for said copy, at the rate of ten cents per folio for each hundred words, which shall be paid into the city and county treasury by him.

SEC. 43. Neither the County Clerk nor any of his deputies shall be required to attend as witnesses, in their official capacities, outside of such city and county, except in criminal cases, unless his expenses be paid, at the rate of ten cents per mile, to and from the place where he may be required, and three dollars a day for each day's attendance. A sufficient number of deputies shall be assigned by him as Court-room Clerks, to the various Courts of which he is the official Clerk, while such Courts are in session, and to do duty in the office when such Courts are not in session. He shall transfer such deputies to duty in Court, or at his office, as the

exigency of the service may require, so as to efficiently perform the work in the most economical manner possible.

SEC. 44. On the commencement in or removal to the Superior Court of such city and county of any civil action or proceeding, he shall collect from the plaintiff, or party instituting such proceeding, or filing the first papers therein, the sum of one dollar, and pay over the same at the end of each month to the Treasurer of the Law Library provided for in this Act; and the payment of the sum of one dollar shall be a condition precedent to the commencement of such action or proceeding, for which sum so required to be collected he and his sureties shall be responsible on his official bond.

SEC. 45. The Tax Collector, upon the final settlement to be made by him as such Tax Collector, according to the requirements of the law, shall be charged with, and shall pay into the hands of the Treasurer, the full amount of all taxes paid to him under protest or otherwise, or by him collected and not previously paid over, without any deduction of commissions, fees, or otherwise; he shall also be charged with and be deemed debtor to the treasury for the full amount of all taxes due upon the delinquent list, delivered to him for collection, unless it be made to appear that it was out of his power to collect the same by levy and sale of any property liable to be seized and sold therefor. If the impossibility to collect any portion of such delinquent taxes have resulted from such negligence or defects in such assessment caused by the willful misconduct of the Assessor, then the Assessor whose duty it was to make the assessment shall be liable and be deemed debtor to the treasury for the amount remaining uncollected for that cause.

SEC. 46. There shall be elected by the qualified voters of such city and county, at the second general State election after the passage of this Act, and every four years thereafter, an Assessor, who shall take office on the first Monday after the first day of January next following his election, and hold for the term of four years, and until his successor is elected and qualified. It shall be his duty to assess all taxable property within such city and county.

SEC. 47. The Sheriff shall attend in person, or by deputy, all the Courts in and for such city and county, except the Police Courts. He shall obey the lawful orders and directions of such Courts, and in all other respects conform to the laws regulating Sheriffs in this State.

SEC. 48. The Recorder of such city and county shall have the custody of all books, records, maps, and papers deposited in his office. He or his chief deputy, when any papers are presented for registration, or to be copied, shall write on the margin of each paper so presented, the number of folios paid for, and shall, in his monthly return to the Treasurer, certify under oath the number of folios copied or registered by each deputy or copyist appointed by him; and such certificate of the Recorder, or his chief deputy, shall be conclusive evidence to authorize the Auditor to audit such certified

accounts of such deputies or copyists monthly. He shall appoint as many copyists as he shall deem necessary to the proper discharge of the duties of his office, who shall be paid at the rate of twelve cents per folio of one hundred words for all matters registered or copied by them respectively.

SEC. 49. The District Attorney is the public prosecutor, and shall be an attorney of the Supreme Court, and shall attend the Superior Court of this State, in and for such city and county, and such other Courts as may be hereafter established in and for the same, and conduct therein, on behalf of the people, all prosecutions for public offenses. He shall perform such other duties as are prescribed by law.

SEC. 50. The City and County Attorney shall be an attorney of the Supreme Court, and shall prosecute and defend all suits and actions at law and in equity, and conduct all legal proceedings, in the Courts and elsewhere, necessary to preserve and protect such city and county's rights, whether such suits or proceedings be conducted in the name of such city and county, or in the name of others. He shall give legal advice to the city government, and all the officers, Boards, and departments thereof, when required so to do, and perform such other duties as such attorney as the Municipal Council shall from time to time prescribe. He shall keep in his office well bound books of registry, in which shall be entered and kept a register of all actions, suits, and proceedings in which such city and county is interested. Each outgoing City and County Attorney shall deliver such books and all other records, law reports, quarterly reports from Municipal Boards and officers, documents, statutes, papers, furniture, and property in his possession to his successor in office, who shall give him duplicate receipts therefor, one to be filed in the office of the Auditor, and one to be retained by the outgoing City and County Attorney.

SEC. 51. The Public Administrator of such city and county shall be subject to the orders of the Superior Court in and for such city and county, and shall perform all the duties prescribed by law.

SEC. 52. The Coroner of such city and county, in addition to the duties imposed by law upon every Coroner, shall keep a record of all inquests held by him, with a copy of all testimony and the inquisition of the juries in full; and in case of loss of the original records, the same shall be admissible in evidence with like effect as the original would have been. He may appoint such deputies, and a messenger or messengers, as are allowed in this Act, or as may be hereafter allowed by the Municipal Council of such city and county. He shall receive no fees for any services rendered by him.

SEC. 53. The Superintendent of Streets shall keep a public office, in some convenient place, to be designated by the Municipal Council. His office shall be kept open as in this Act provided. He shall not, during his continuance in office, follow any other profession or calling, but shall be required to devote himself exclusively to the duties of his said office. He shall have under his special charge the construction,

reconstruction, repairing, and cleansing of all public sewers, manholes, sinks, drains, cesspools, and of the public streets, highways, alleys, places, and squares, excepting the parks. It shall be his duty to see that the laws, orders, and regulations relative to the public streets and highways, alleys, places, and squares are carried into execution, and that the penalties therefor are rigidly enforced, as may be prescribed by the Municipal Council. He shall keep himself informed of the condition of all public streets, highways, alleys, places, and squares; and should he fail to see that the laws, ordinances, and regulations relating to the public streets, highways, alleys, places, and squares, are carried into execution, after notice from any citizen of a violation thereof, such Superintendent and his sureties shall be liable upon his official bond to any person injured in person or property by such official neglect.

SEC. 54. The City and County Surveyor shall be Engineer-in-Chief of such city and county, and of the sewerage system; shall make all necessary plans, surveys, maps, and drawings, and other necessary things, and keep the same in his office; and all such maps, plans, machinery, and drawings shall be the property of such city and county, and remain in the office, and be transferred by the outgoing to the incoming officer. He shall do all necessary surveying and engineering for the streets, alleys, highways, and squares, at the request of the Municipal Council, or of any committee appointed by either branch of the same, and all and any other surveying and engineer work that such city and county may require, and of the public parks, at the request of the Park Commissioners.

SEC. 55. Within twenty days immediately prior to the first Monday in July, eighteen hundred and eighty-one, the Municipal Council of such city and county shall appoint a suitable person as Collector of Licenses of such city and county, who shall hold office for two years from and after his appointment, and until his successor shall be appointed and qualified, and said appointee shall be the successor of any present incumbent, and the official term of such present incumbent shall terminate on said first Monday in July, eighteen hundred and eighty-one. In case of a vacancy occurring by death or otherwise in the office of the Collector of Licenses of such city and county, holding his office under the provisions of this Act, the same shall be filled for the remainder of the unexpired term by appointment of the Board of Aldermen; and in case of the inability of said Collector of Licenses to act, his place shall, in the same manner, be temporarily filled until such disability is removed. The Collector of Licenses and his deputies are hereby authorized, empowered, and required to collect all the municipal licenses now required to be collected, or which shall hereafter be required to be collected by them or either of them; and it shall be the duty of said Collector of Licenses, and his Deputies or Assistant Collectors, to attend to the collection of licenses, and examine all places of business and persons liable to pay licenses, and to see that licenses are taken out and paid for. They shall each have and exercise,

in the performance of their official duties, the same powers as police officers in serving process or summons and in making arrests; also, shall each have and exercise the power to administer such oaths and affirmations as shall be necessary in the discharge and exercise of their official duties ; and they and each of them are hereby empowered to enter any place of business for which a license by law is provided and required, free of charge, at their pleasure, and to demand the exhibition of any license for the current time from any person, or firm, or corporation engaged or employed in the transaction of any business for which a license is by law rendered necessary ; and if such person, or firm, or corporation, or either of them, shall be unable, or refuse, or neglect, or fail to then and there exhibit such license, he, she, or they, as the case may be, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished accordingly.

SEC. 56. The Collector of Licenses shall daily pay to the Treasurer of such city and county all moneys so collected for licenses sold, or by him received as fees; and shall, under oath, at least once in each calendar month, and oftener when required so to do by the Auditor, make to the Auditor a report of all such licenses sold and on hand, and of all amounts so paid to the City and County Treasurer; shall at such time exhibit to the Auditor all unsold licenses in his hands and the Treasurer's receipts for all moneys paid into the treasury; and all licenses so signed by the License Collector, or Deputy License Collector, or either of them, shall be as valid as if signed by the City and County Treasurer. All fees so paid to him shall be placed to the credit of the proper fund by the Treasurer.

SEC. 57. There shall be in and for such city and county one Justices' Court, composed of six Justices of the Peace, which shall have the powers and jurisdiction prescribed and conferred by law upon Justices of the Peace and Justices' Courts in such city and county. All actions, suits, and proceedings whereof Justices of the Peace and Justices' Courts in such city and county have jurisdiction shall be commenced, entitled, and prosecuted in said Court. Such Court shall be always open, non-judicial days excepted, and causes therein may be tried before the presiding Justice, before any one of the Justices before whom the original process may be made returnable, or to whom the cause may be assigned or transferred for trial.

SEC. 58. The Board of Aldermen shall appoint one of the Justices of the Peace to be presiding Justice, who, as such, shall hold office until his successor shall in the same manner be appointed ; and any one of the other Justices may attend, preside, and act as presiding Justice during the temporary absence or disability of the Justice so appointed. The Board of Aldermen, within ten days after its organization as such Board, shall appoint a Justices' Clerk, who shall hold office during the pleasure of the appointing power. The Clerk shall take the constitutional oath of office, and give bond, with at least two sufficient sureties, to be approved in the same manner as the official bond of other officers of such city and county,

in the sum of not less than fifteen thousand dollars, payable to the city and county, conditioned for the faithful discharge of the duties of his office, and well and truly to account for and pay into the treasury of such city and county, as required by law, all moneys by him collected or received, and by law designated for that use. A new or additional bond may be required by the Municipal Council whenever it deems it necessary; and on failure to furnish such new or additional bond within five days after it shall be required, the office shall become vacant. The Justices' Clerk shall have authority to administer oaths, and take and certify affidavits in any action, suit, or proceeding in all Courts in such city and county, and to appoint two Deputy Clerks, for whose acts he shall be responsible on his official bond; the said Deputy Clerks to hold office during the pleasure of said Clerk. Said Deputy Clerks shall have the same power as the said Clerk, except that of appointment.

SEC. 59. The Municipal Council of such city and county shall provide, in some convenient locality in the city and county, a suitable office, or suite of offices for said presiding Justice, Justices' Clerk, Deputy Clerk, and Deputy Sheriff, and offices suitable for holding sessions of said Court, and separate from one another, for each of said Justices of the Peace, together with attendants, furniture, fuel, lights, and stationery, sufficient for the transaction of business; and if they are not provided, the Court may direct the Sheriff to provide the same, and the expenses incurred, certified by the Justices to be correct, shall be a charge against the city and county treasury, and paid out of the General Fund thereof. The said Justices, Justices' Clerk, and Deputy Clerk, shall be in attendance at their respective offices for the dispatch of official business daily, from the hour of nine o'clock A. M. until five o'clock P. M.

SEC. 60. All legal process of every kind in actions, suits, or proceedings in said Justices' Court, for the issue or service of which any fee is or may be allowed by law, shall be issued by the said Justices' Clerk, upon the order of the presiding Justice, or upon the order of one of the Justices of the Peace, acting as presiding Justice, as in this Act provided; and the fees for issuance and service of all such process, and all other fees which are allowed by law for any official services of Justices, Justices' Clerk, or Sheriff, shall be exacted and paid in advance into the hands of said Clerk, and be by him daily, weekly, or monthly, as the Municipal Council may require, and before his salary shall be allowed, accounted for in detail, under oath, and paid into the treasury of such city and county as part of the Special Fee Fund thereof; *provided*, that such payment in advance shall not be exacted from parties who may prove, to the satisfaction of the presiding Justice, that they have good cause of action, and that they are not of sufficient pecuniary ability to pay the legal fees; and no judgment shall be rendered in any action before said Justices' Court, or any of said Justices, until the fees allowed therefor, and all fees for previous services therein, which are destined to be paid into the treasury, shall have been paid, except in cases of poor persons as hereinbefore provided.

SEC. 61. The Sheriff of such city and county shall be ex officio an officer of said Court, and it shall be his duty to serve or execute, or cause to be served and executed, each and every process, writ, or order that may be issued by said Justices' Court; *provided*, that a summons issued from said Court may be served and returned as provided in section eight hundred and forty-nine of the Code of Civil Procedure; and that subpœnas may be issued by the Justices' Clerk, and served as provided in sections nineteen hundred and eighty-seven and nineteen hundred and eighty-eight of the Code of Civil Procedure. The said Sheriff may appoint, in addition to the other deputies allowed by law, three deputies, whose duty it shall be to assist said Sheriff in serving and executing the process, writs, and orders of the said Justices' Court. Said deputies shall receive a salary of not to exceed one hundred and twenty-five dollars per month each, payable monthly, out of the city and county treasury, and out of the Special Fee Fund, after being first allowed and audited as other demands are by law required to be audited and allowed. One of said deputies shall remain in attendance during the sessions of said Court, and at such other times as the said Court or the presiding Justice thereof may order and direct, for the purpose of attending to such duties as may be imposed on said Sheriff or said deputies, as herein provided or required by law. The said Sheriff shall be liable on his official bond for the faithful performance of all duties required of him, or any of his said deputies.

SEC. 62. All actions, suits, and proceedings in such city and county, whereof Justices of the Peace or Justices' Courts have jurisdiction, except those cases of concurrent jurisdiction that may be commenced in some other Court, shall be entitled: "In the Justices' Court of the City and County of —," (inserting the name of the city and county), and commenced and prosecuted in said Justices' Court, which shall be always open. The original process shall be returnable, and the parties summoned required to appear before the presiding Justice, or before one of the other Justices of the Peace to be designated by the presiding Justice, at his office; but all complaints, answers, and other pleadings and papers required to be filed, shall be filed, and a record of all such actions, suits, and proceedings made and kept in the Clerk's office aforesaid; and the presiding Justice, and each of the other Justices, shall have power, jurisdiction, and authority to hear, try, and determine any action, suit, or proceeding so commenced, and which shall have been made returnable before him, or may be assigned or transferred to him, or any motion, application, or issue therein (subject to the constitutional right of trial by jury), and to make any necessary and proper orders therein.

SEC. 63. In case of sickness or disability, or absence of a Justice of the Peace (on the return of a summons, or at the time appointed for trial) to whom a cause has been assigned, the presiding Justice shall reassign the cause to some other Justice, who shall proceed with the trial and disposition of said cause in the same manner as if originally assigned to

him; and if, at any time before the trial of a cause or matter returnable or pending before any of said Justices, either party shall object to having the cause or matter tried before said Justice, on the ground that such Justice is a material witness for either party, or on the ground of the interest, prejudice, or bias of such Justice, and such objection be made to appear in the manner prescribed by section eight hundred and thirty-three of the Code of Civil Procedure, the said Justice shall suspend proceedings, and the presiding Justice, on motion and production before him of the affidavit and proofs, shall order the transfer of the cause or matter for trial before some other Justice, to be designated by him. The presiding Justice may, in like manner, assign or transfer any contested motion, application, or issue in law, arising in any cause returnable or pending before him or any other Justice, to some other Justice, and the said Justice to whom any cause, matter, motion, application, or issue shall be so as aforesaid assigned or transferred, shall have power, jurisdiction, and authority to hear, try, and determine the same accordingly.

SEC. 64. Cases which by the provisions of law are required to be certified to the Superior Court, by reason of involving the question of title or possession real property, or the legality of any tax, impost, assessment, toll, or municipal fine, shall be so certified by the presiding Justice and Justices' Clerk; and for that purpose, if such question shall arise on the trial while the case is pending before one of the other Justices, such Justice shall certify the same to the presiding Justice. All abstracts and transcripts of judgments and proceedings in said Court, or in any of the dockets or registers of or deposited in said Court, shall be given and certified from any of such dockets or registers, and signed by the presiding Justice and Clerk, and shall have the same force and effect as abstracts and transcripts of Justices of the Peace in other cases. Appeals from judgments rendered in said Court shall be taken and perfected in the manner prescribed by law, and the notice of appeal and all papers required to be filed to perfect it, shall be filed with the Justices' Clerk. Statements on appeal shall be settled by the Justice who tried the cause. Sureties on appeal, or on any bond or undertaking given in any cause or proceeding in said Court, when required to justify, may justify before any one of the Justices.

SEC. 65. The jurisdiction of the Justices' Court of such city and county extends to the limits of the city and county, and its process may be served in any part thereof.

SEC. 66. The presiding Justice, whenever in his judgment the prompt dispatch of business shall demand it, may require the aid of one of the Justices of the Peace in the discharge either of his own duties or those of the Justices' Clerk (the collection of fees, accounting for and paying the same into the treasury excepted), and each of the Justices, when so required, shall, for the purpose, have the same power and authority as the presiding Justice or Clerk in whose aid he shall act; and any one of the Justices, when required as aforesaid, may act as a Justices' Clerk pro tempore during

the temporary absence or disability of such Clerk, with the same powers, duties, and responsibilities.

SEC. 67. In a suitable book, strongly bound, the Justices' Clerk shall keep a permanent record of all actions, proceedings, and judgments commenced, had, or rendered in said Justices' Court, which book shall be a public record, and be known as the "Justices' Docket," in which docket the Clerks shall make the same entries as are provided for in section nine hundred and eleven of the Code of Civil Procedure, and which said docket and entries therein shall have the same force and effect as is provided by law in reference to dockets of Justices of the Peace. To enable the Clerk to make up such docket, each of the Justices shall keep minutes of his proceedings in every cause returnable before or assigned or transferred to him for trial or hearing; and upon judgment or other disposition of a cause, such Justice shall immediately certify and return the said minutes, together with all pleadings and papers in said cause, to the Clerk's office, who shall immediately thereupon file the same, and make the proper entries under the title of the action in the docket aforesaid.

SEC. 68. The Justices' Court and the Justices of the Peace of every such city and county shall be governed in their proceedings by the provisions of law regulating proceedings before Justices of the Peace, so far as such provisions are not altered or modified in this Act, and the same are or can be made applicable in the several cases arising before them. The Justices' Court of such city and county shall have power to make rules not inconsistent with the Constitution and laws for the government of such Justices' Court and the officers ther eof; but such rules shall not be in force until thirty days after their publication; and no rule shall be made imposing any tax or charge on any legal proceeding, or giving any allowance to any Justice or officer for services.

SEC. 69. All actions and proceedings pending and undetermined before the Justices' Court of said city and county at the time of its organization under this Act, shall be proceeded in, heard, and determined before the Court herein provided for, and execution shall be issued thereon, and other proceedings had therein, whether before or after judgment, whether on appeal or otherwise, and the Court provided for under this Act shall be deemed to be a continuation of the same Court before existing, and not a new Court.

SEC. 70. It shall not be lawful for any Justice of the Peace, the Justices' Clerk, or the Sheriff, or any of his deputies, of such city and county, to appear or advocate, or in any manner act as attorney, counsel, or agent for any party or person in any cause, or in relation to any demand, account, or claim pending, or to be sued or prosecuted before said Justices, or any of them, or which may be within their jurisdiction. A violation of the provisions of this section shall be deemed a misdemeanor in office.

SEC. 71. No person, other than an attorney at law, duly admitted and licensed to practice in Courts of record, shall be permitted to appear as attorney or agent for any party in

any cause or proceeding before said Justices, or any of them, unless he produce a sufficient power of attorney to that effect, duly executed and acknowledged before one of said Justices, or before some other officer authorized by law to take acknowledgment of deeds; which power of attorney, or a true copy thereof, duly certified by one of the Justices aforesaid (who, on inspection of the original, shall attest to its genuineness), shall be filed among the papers in such cause or proceeding.

SEC. 72. If, at the time of the organization of such city and county, under this Act, there shall not be the complement of Justices of the Peace provided for in this Act, the Municipal Council of such city and county shall appoint a suitable person or persons to fill such complement, and the person or persons so appointed shall hold office from his or their appointment, and until his or their successor or successors is or are elected or appointed and qualified.

SEC. 73. The Police Court of such city and county shall have jurisdiction:

*First*—Of an action or proceeding for the violation of any ordinance of such city and county.

*Second*—Of proceedings respecting vagrants and disorderly persons.

SEC. 74. The Police Court shall have jurisdiction of the following public offenses committed in such city and county:

*First*—Petit larceny, receiving stolen property, when the amount involved does not exceed fifty dollars.

*Second*—Assault or battery, not charged to have been committed on a public officer in the discharge of his duties, or with intent to kill.

*Third*—Breaches of the peace, riots, affrays, committing willful injury to property, and all misdemeanors punishable by fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

*Fourth*—Said Court shall have jurisdiction of proceedings for security to keep the peace, and also, throughout such city and county, the same powers and jurisdiction in other criminal actions, cases, and proceedings as are now or hereafter may be conferred by law upon Justices of the Peace or Justices' Courts. The Justices of the Peace within the limits of such city and county shall not have power to try and decide any cases of the classes mentioned in this section, except as hereinafter provided, nor to hold inquests in cases of fire.

SEC. 75. The said Court shall also have power to hear cases for examination, and may commit and hold the offender to bail for trial in the Superior Court, and may try, condemn, or acquit, and carry its judgment into execution, as the case may require, according to law, and shall have power to issue warrants of arrest, subpœnas, and all other process necessary to the full and proper exercise of his power and jurisdiction. All fines imposed by the Police Court, not exceeding twenty dollars, exclusive of costs, shall be final and without appeal.

SEC. 76. The said Court may punish contempts in the same manner and to the same extent as Superior Courts, and the laws concerning contempts applicable to Superior Courts and Judges shall be applicable to said Police Court and Judge.

SEC. 77. All fines imposed by the Police Court shall be paid into the treasury of such city and county, except in cases of prosecutions in behalf of the societies for the prevention of cruelty to children and animals. In cases where, for any offense, the said Court is authorized to impose a fine, or imprisonment in the County Jail, or both, it may, instead, sentence the offender to be employed in labor on the public works, or in the House of Correction, or Work-house, as the Municipal Council may prescribe, for a period of time equal to the term of imprisonment which might legally be imposed, and may, in case a fine is imposed, embrace as a part of the sentence, that, in default of payment thereof, the offender shall be obliged to labor on said works, at said House of Correction, or Work-house, or elsewhere, at the rate of one dollar a day, till the fine imposed is satisfied.

SEC. 78. The Police Court shall have a Clerk, to be appointed by the Board of Aldermen, who shall hold office during the pleasure of such Board. The Clerk shall keep a record of the proceedings of and issue all process ordered by said Court, and receive and pay weekly into the treasury of such city and county all fines imposed by said Court. He shall render to the City and County Auditor monthly, and before any amount can be paid to him on account of his salary, an exact and detailed account upon oath, accompanied with an exhibition of said record of all fines imposed and moneys collected since his last account rendered. He shall prepare bonds, justify and accept bail, when the amount has been fixed by the Police Judge or Court, in cases not exceeding one thousand dollars; and he shall fix, justify, and accept bail after arrest, in the absence of the Police Judge, in all cases not amounting to a felony, in the same manner and to the same effect as though the same had been fixed by the Police Judge or Court. The Clerk shall remain at the Court-room of said Court during the hours required by law, and during such reasonable hours thereafter as may be necessary for discharging his said duty. He shall make a full sworn settlement with the Auditor and Treasurer once a week, filing an affidavit with such officers of its correctness; which affidavit shall show all the facts, and that no funds remain in his hands. Any violation of this provision shall be deemed a misdemeanor in office, and vacate the office, and such delinquency shall be reported by the Treasurer and Auditor to the Municipal Council who shall appoint another person to fill the place forthwith. He shall take the constitutional oath of office, and give bonds with at least two sufficient sureties, to be approved in the same manner as the official bonds of other officers of such city and county, in the sum of at least ten thousand dollars, payable to such city and county, conditioned for the faithful performance and discharge of the duties of his office, and

well and truly to account for and pay into the treasury of such city and county, as required by law, all moneys by him collected or received and by law designated for that use. A new and additional bond may be required by the Board of Aldermen whenever it may deem it necessary, and on failure to furnish such new and additional bond, within five days after it shall be required, the office shall become vacant. The said Clerk shall have authority to administer oaths, and take and certify affidavits in any action, suit, or proceeding in any Court in and for such city and county, and to appoint a Deputy Clerk, for whose acts he shall be responsible on his official bond; the said Deputy Clerk to hold office during the pleasure of said Clerk.

SEC. 79. When, in the opinion of the Police Judge, from any cause, it shall be necessary that the business of the Police Court should be tried and disposed of by another Judge, at his request one of the Justices of the Peace in this Act provided for, other than the presiding Justice of the Justices' Court, shall hold said Police Court, for the purpose of trying such cases as shall be by said Police Judge awarded to him to try; and such Justice may try and dispose of such cases so awarded at any time, except on non-judicial days, whether said Police Judge shall be engaged in trying cases in said Police Court or not; and the Municipal Council shall provide suitable rooms in such city and county, in which such Justice shall try cases so awarded to him to try.

SEC. 80. In the absence or disability of said Police Judge, any of the Justices of the Peace other than the one to whom shall be awarded cases for trial as aforesaid, shall be designated by the presiding Justice of the Justices' Court, and shall during such absence or disability of said Police Judge perform all the duties of such Judge, including the awarding of cases as aforesaid.

SEC. 81. There shall be appointed by the Board of Aldermen, an attorney and counselor of the Supreme Court of this State, as Prosecuting Attorney of the Police Court, who shall hold office during the pleasure of said Board. The said Prosecuting Attorney shall have authority to appoint two assistants, who shall be attorneys and counselors of said Supreme Court. The Prosecuting Attorney and his assistants shall each take the constitutional oath of office, and give bonds, with at least two sureties, to be approved in the same manner as the official bonds of other officers of such city and county, in the sum of at least three thousand dollars, payable to such city and county, conditioned for the faithful discharge of the duties of their office.

SEC. 82. No person other than an attorney at law, duly admitted and licensed to practice in Courts of record, shall be admitted to practice as attorney or agent for any party in any cause or proceeding before said Police Court.

SEC. 83. The compensation or salary of any officer provided for in this Act shall not be increased or reduced after his election or during his term of office, and nothing in this Act shall in any manner affect the salary of any officer in

office at the time the same shall take effect, except that there shall be no increase thereof.

SEC. 84. The salaries of the officers, clerks, deputies, or employés of such city and county, except as otherwise in this Act provided, shall be as follows, and payable in monthly installments at the end of each and every month, viz.:

*First*—The salary of the Mayor shall be three thousand dollars per annum; he may appoint a Clerk, to be known as the Mayor's Clerk, whose salary shall be one thousand eight hundred dollars per annum.

*Second*—The salary of the Sheriff shall be six thousand dollars per annum; he may appoint one Under Sheriff, whose salary shall be two thousand four hundred dollars per annum; one Book-keeper, whose salary shall be two thousand four hundred dollars per annum; he may appoint twenty-five Deputies, each of whom shall receive a salary of one thousand six hundred dollars per annum, one of which said deputies shall be assigned to and perform the duties of Assistant Book-keeper; sixteen Deputies, whose salaries shall be one thousand five hundred dollars per annum; one counsel, who shall be an attorney of the Supreme Court of the State, whose salary shall be one thousand eight hundred dollars per annum; one Matron, whose salary shall be nine hundred dollars per annum; one driver of prison wagon, whose salary shall be nine hundred dollars per annum.

*Third*—The salary of the Auditor shall be three thousand dollars per annum; he may appoint one Deputy, whose salary shall be twenty-four hundred dollars per annum, and two Clerks, at a salary of one thousand six hundred dollars per annum each.

*Fourth*—The salary of the Treasurer shall be three thousand dollars per annum; he may appoint one Chief Deputy, whose salary shall be twenty-four hundred dollars per annum, and one Deputy, whose salary shall be two thousand one hundred dollars per annum.

*Fifth*—The salary of the Tax Collector shall be three thousand dollars per annum; he may appoint one Chief Deputy, one Cashier, each of whom shall receive a salary of two thousand dollars per annum, and ten permanent Deputies, whose salary shall be one thousand six hundred dollars per annum each.

*Sixth*—The salary of the Assessor shall be three thousand dollars per annum; he may appoint one Chief Office Deputy, one Chief Field Deputy, and one head Draughtsman, each of whom shall receive a salary of two thousand dollars per annum; an Assistant Draughtsman, who shall receive a salary of eighteen hundred dollars per annum; and eleven office Deputies, each of whom shall receive a salary of one thousand eight hundred dollars per annum. He may also appoint such additional deputies as may be allowed by the Municipal Council, at salaries not to exceed five dollars per day each for such time as they may be employed.

*Seventh*—The salary of the Recorder shall be three thousand dollars per annum; he may appoint one Chief Deputy, whose salary shall be twenty-four hundred dollars per annum, and

two Deputies, each of whom shall receive a salary of one thousand eight hundred dollars per annum; also, two Porters, who shall perform the duties of Watchmen, each of whom shall receive a salary of nine hundred dollars per annum.

*Eighth*—The salary of the County Clerk shall be three thousand dollars per annum; he may appoint deputies as follows: One Chief Deputy, whose salary shall be two thousand four hundred dollars per annum; twelve Court-room Clerks, twelve Registry Clerks, each of whom shall receive a salary of twenty-one hundred dollars per annum; twelve Assistant Registry Clerks, each of whom shall receive a salary of one thousand six hundred dollars per annum; and twelve Copyists, each of whom shall receive a salary of one thousand six hundred dollars per annum; and such County Clerk, when the exigencies of his office shall require, may, in his discretion, employ such additional copyists as shall be necessary, at a compensation not to exceed three dollars per day for the days of actual service; *provided*, said number shall not exceed at any one time three copyists for each Judge of the Superior Court, to be paid from the treasury in the same manner as the salaries herein provided for are to be paid.

*Ninth*—The salary of the District Attorney shall be four thousand dollars per annum; he may appoint two Assistants, who shall be attorneys of the Supreme Court of this State, each of whom shall receive a salary of twenty-four hundred dollars per annum, and two Clerks, who shall be attorneys of the Supreme Court of the State, each of whom shall receive a salary of fifteen hundred dollars per annum.

*Tenth*—The salary of the City and County Attorney shall be four thousand dollars per annum; he may appoint two Assistants, who shall be attorneys of the Supreme Court of this State, each of whom shall receive a salary of twenty-four hundred dollars per annum; and one Copyist, who shall receive a salary of nine hundred dollars per annum.

*Eleventh*—The salary of the Coroner shall be three thousand dollars per annum; he may appoint two Deputies, one to act as first Deputy, whose salary shall be one thousand six hundred dollars per annum, the other to act as second Deputy, and whose salary shall be one thousand five hundred dollars per annum; and one Messenger, to take charge of the dead wagon, and perform such other duties as are required by the Coroner or his deputies. The salary of the Messenger shall be nine hundred dollars per annum.

*Twelfth*—The salary of the Superintendent of Streets shall be three thousand dollars per annum; he may appoint twenty Deputies; three of said Deputies shall receive a salary of two hundred dollars per month each, and seven of said Deputies shall receive a salary of one hundred and fifty dollars per month each, and ten of said Deputies shall receive a salary of one hundred and twenty-five dollars per month each.

*Thirteenth*—The salary of the City and County Surveyor shall be three thousand dollars per annum; he may appoint as many deputies, not to exceed four, as the Municipal

Council shall from time to time determine are necessary, who shall receive such compensation as such Municipal Council shall provide, not to exceed the sum of five dollars per day when actually employed.

*Fourteenth*—The salary of the Superintendent of Schools shall be three thousand dollars per annum.

*Fifteenth*—The salary of the Police Judge shall be four thousand dollars per annum.

*Sixteenth*—The salary of the Prosecuting Attorney of the Police Court shall be twenty-four hundred dollars per annum, and his two Assistants shall each receive a salary of one thousand five hundred dollars per annum.

*Seventeenth*—The salary of the presiding Justice of the Justices' Court shall be three thousand dollars per annum, and each of the other Justices of the Peace shall receive a salary of two thousand four hundred dollars per annum.

*Eighteenth*—The salary of the Clerk of the Justices' Court shall be two thousand four hundred dollars per annum; his two Deputies shall each receive a salary of one thousand two hundred dollars per annum.

*Nineteenth*—The salary of the Collector of Licenses shall be three thousand dollars per annum; he may appoint one Chief Deputy, who shall receive one thousand eight hundred dollars per annum, and twelve Deputies, who shall receive a salary of one thousand five hundred dollars per annum each.

SEC. 85. The salary of the Election Commissioner shall be three thousand dollars per annum; he may appoint one Deputy, who shall receive a salary of one thousand eight hundred dollars per annum; and the Board of Election Directors may appoint such other Deputies and Clerks as may be necessary, who shall receive such compensation as such Board shall fix therefor.

SEC. 86. The conduct, management, and control of elections, and matters pertaining to elections, in such city and county, shall be vested in a committee of five members, three of whom shall be chosen by and from the Board of Aldermen, and two of whom shall be chosen by and from the House of Delegates, which committee shall be and be known as the Board of Election Directors, which Board shall have the direction, charge, and supervision of all matters pertaining to elections; and the Election Commissioner, hereafter provided for, shall be ex officio Secretary of said Board, and shall give advice and information to said Board when required by them so to do.

SEC. 87. The Board of Election Directors shall, on or before the first day of July preceding each general election, divide such city and county into election precincts, of which there shall be so many as shall be sufficient to make the number of votes polled at any one election precinct to be not more than three hundred nor less than two hundred, as near as can be ascertained, and arranged, using streets and avenues as boundaries, preserving, as near as practicable, the numerical designation of the precinct as known in each ward and senatorial district in the preceding precinct division.

SEC. 88. The person acting as Registrar of Voters for such city and county at the time of the passage of this Act shall perform the duties of the Election Commissioner, as prescribed by this Act, and he shall hold the office of Election Commissioner of such city and county during the pleasure of the appointing power. In case of vacancy in the office of Election Commissioner, by removal or otherwise, the Governor shall, by appointment, fill such vacancy. The Municipal Council shall provide a suitable office for said Election Commissioner, and such allowance for stationery, printing, and incidental expenses as shall be necessary. The Election Commissioner shall give bond, with at least two sureties, in the sum of ten thousand dollars, conditioned for the faithful performance of his duty, and the duties of his deputies and clerks, which bond shall be approved in the same manner as other bonds.

SEC. 89. The Election Commissioner, when appointed and qualified, shall be clothed with all the powers, discharge all the duties, and be liable to all the obligations and official consequences belonging to, discharged by, or resting upon the County Clerk of counties in other cases, with respect to the registration of voters and other matters pertaining to elections in such city and county under the provisions of the Political Code of this State, so far as the same are not annulled by this Act. All officers or persons in such city and county heretofore exercising any duties in reference to registration of votes or elections, upon demand shall transfer and deliver to said Election Commissioner all registers, records, books, documents, and things belonging or in anywise appertaining to the registration of voters, or other election matters in such city and county; *provided*, the County Clerk shall continue to administer oaths of office, issue certificates of election, and act in matters of election contest, as prescribed by the Political Code; and the Registrar shall file with the County Clerk a certificate of the official canvass of elections, as prescribed by law in such cases.

SEC. 90. The said Election Commissioner shall be in attendance, except when absent on official duties, and keep his office open for business every day in the year (Sundays and legal holidays excepted), from nine o'clock A. M. till five P. M. It shall be unlawful for the Election Commissioner, his deputy, or clerks, to register citizens at other times or in other places than his office, as provided by law. All registration of voters must be done where the public may have easy access, without disturbing, or interfering, or retarding an honest execution of the law. The Commissioner and his deputy, as well as clerks, not to exceed eight in number, engaged in the registration of voters, and the Board of Election Directors, as well as the Boards of Precinct Registration appointed by said Board, shall have power to administer oaths and affirmations in all matters touching elections, the duties of their offices, and the registration of voters, or inquiry into their qualifications.

SEC. 91. The Election Commissioner shall constantly inform himself by examination and inquiry as to the condi-

tion of the Precinct Registers, and the legality of the names therein or demanding to be placed thereon, and shall see that none but legal voters are registered. Should the Election Commissioner have reason to believe that any name or names upon the Precinct Register is improperly or illegally there, it shall be his duty forthwith to send a written or printed notice, by postal card or otherwise, to such person, directing the same to his address, as found in the directory, or in case his name is not in the directory, then the address of such person opposite the name on the register on the last preceding election at which such name was voted, requiring such person to show cause before the Board of Election Directors why said Directors shall not cancel such name. If such person fail for five days to appear and establish the legality of such name on the day fixed for the hearing, and on the certificate of the Election Commissioner that notice and publication in accordance herewith has been made, the Board shall inquire into the case, and if it appears to the satisfaction of the Board, that such name is improperly upon the Precinct Register, then said Board shall make and enter an order directing the Election Commissioner to cancel such name or names; but the parties may appear before said Board, at the hearing, and show cause against said order; and if the Board finds them properly registered, or entitled to registry, an order shall be made accordingly, which shall be final. The Board may designate any one of the Directors to hear and determine such matters.

SEC. 92. The Election Commissioner shall keep in his office a list of all deaths occurring in such city and county of adult males, as well as the deaths of such citizens as may come to his knowledge who may die elsewhere, to be alphabetically arranged for convenience of reference. Also, all removals or changes of residence, so far as he can learn the same, and commitments to prisons and insane asylums, with time and place, as well as such other information as shall be found useful and within his reach. It shall be the duty of all Clerks of Courts, prison keepers, health officers, and all other public officers, and others, on demand, to furnish to said Election Commissioner certified statements of such official facts within their knowledge necessary to obtain information in and about his said duty.

SEC. 93. The Election Commissioner, under and subject to the rules of the Board, must take charge of the business of placing the election officers, and at the last moment, when it is too late to call the Board together to fill vacancies, may select and appoint election officers for said purpose. Should any election officer fail to appear at the opening of any election, or at any time during the progress thereof, the officers in attendance may, subject to such rules as the Board of Election Directors shall provide, fill up the same by appointing any competent citizen from the political party to which the person whose position has been vacated belongs. Any person refusing to serve when so appointed, shall be liable to all the pains and penalties of this Act.

SEC. 94. The registration of voters, counting of votes or

ballots, and all proceedings connected therewith, shall be in public, and citizens of orderly and good conduct shall have free ingress and egress to and from the place where the same is being done. Any election officer, or other person, who shall hinder or impede any citizen in his right to free entrance to the polling place, and to observe and watch the counting of votes or ballots, shall be deemed guilty of a misdemeanor, and, on conviction, punished accordingly.

SEC. 95. It is hereby made the duty of any and all voters in such city and county (persons holding office or employment under the United States, the State of California, or such city and county, or any of its departments, excepted) to serve as Judges, Inspectors, and Clerks, or other officers of election, whenever required to do so under the provisions of this Act.

SEC. 96. It shall be the duty of the Election Commissioner, to obtain from the property tax list and registers of voters of such city and county, the names of the resident citizens of said city and county possessing the necessary qualifications to act as Judges, Inspectors, and Clerks of Election, taking care to select persons of good reputation and character, and have the same placed in a book, so as readily to refer to the places of residence, and the precinct in which they vote. He shall take care that said list shows the names and residences of all property taxpayers who reside in such city and county, and who are voters, and shall ascertain, as nearly as he can, the capabilities of such voters to act as election officers.

SEC. 97. Said Board of Election Directors shall select all election officers provided for by law for such city and county, and shall appoint them to their respective places, who must be registered voters, and able to read, write, and speak the English language understandingly. They shall have the power to make any regulations and rules for the appointment or selections they may deem advisable, so as to secure integrity, impartiality, and capacity for the work to be done; and if the list furnished them by the Election Commission does not contain a sufficiency of names of respectable and fit persons for election officers, they must take measures to secure the names of proper persons, citizens, and voters of such city and county, and to fill up all appointments hereinafter provided; *provided*, that in selecting election officers the Directors shall take care to select, as nearly as possible, an equal number of persons of opposite political faith and opinions to serve at each precinct.

SEC. 98. Each election officer under this Act shall be entitled to receive for his services the sum of three dollars per day while actually engaged in said work of receiving and counting votes, to be paid out of the treasury of such city and county, in the manner provided by law for the payment of such service, and no more; *provided*, that said Board of Directors may, in their discretion, raise the compensation of Clerks for tallying, writing, and other matters requiring special skill and qualifications, to such sum as they shall find necessary to secure such service, but not to exceed four

dollars per day; *provided*, that such increased compensation shall, under no circumstances, be allowed to any Judge or Inspector; *and provided further*, that no person holding any office or employment under the United States, the State of California, or such city and county, or any of its departments, nor any candidate for office, or who shall have been either thereof within ninety days, shall be eligible to or allowed to serve as an election or registration officer, Clerk, or in any manner whatsoever at an election; *provided*, that the members of the Precinct Registration Boards shall receive for their services while acting upon the Precinct Registers, the sum of forty dollars each in full for such service, and no more.

SEC. 99. Each and every person selected by the Board of Election Directors shall be notified by the Election Commissioner of the fact of his appointment; such notice shall be in writing, or printed, and shall have printed thereon a copy of this section, and may be served by postal card or otherwise. Such person so notified shall appear within the time fixed in the notice, but which shall not be less than five days, before the Election Commissioner, and at least one of the Directors, for the purpose of examination, and if found qualified shall, unless excused by said Director by reason of ill health, or other good and sufficient cause, be bound to serve as such officer for the term of one year from the date of his appointment, unless previously excused or dismissed by the Board; and in case of neglect or refusal to comply with the above mentioned requirements, or to serve or act, shall be liable to a penalty of five hundred dollars, recoverable by civil action in any Court of competent jurisdiction in the name of such city and county; and when collected shall be paid into the treasury for the benefit of the proper fund. And a failure on the part of any such person to present himself for examination, and to comply with any of the requirements of this Act, preliminary to receiving his certificate of appointment, within the time prescribed, or to attend on the day of registration, or revision, or examination of registration, or the day of any election during said term, unless prevented by sickness or other sufficient cause, shall be deemed a refusal within the meaning of this section.

SEC. 100. The registration of electors in such city and county shall be done by election or voting precincts. The provisions of the Political Code requiring the keeping of a Great Register and Ward Registers shall not be applicable to such city and county. The provisions of said Code as to making and keeping the Great Register, and as to the Ward Registers, and the manner of entering names therein, and the substance and contents of said entries, and the alterations, changes, and cancellations thereof, as well as the proceedings and proof to enable voters to be registered in said Great Register and Ward Registers, and all matters relating thereto, so far as the same are not in conflict or inconsistent with the provisions of this Act, shall be applicable to the Precinct Registers of such city and county. And

said Precinct Registers shall be used at all elections, and no person shall vote at any election except he be legally registered upon the Precinct Register of the precinct in which he is a qualified voter and where he offers to vote.

SEC. 101. The registration of electors in the Precinct Registers in such city and county, shall take place previous to each general election, as herein provided, and an elector properly enrolled therein, without being again enrolled, may, if he has not removed from such precinct, vote at the general election ensuing his registration, and at all special elections between said general election and the next general election, but not afterwards until re-registered according to law.

SEC. 102. In addition to the matters required by the Political Code to be entered in the register, the Precinct Registers in such city and county shall particularize the place of residence of each elector registered, by specifying the name of the street, avenue, or other location of the dwelling of such elector, with the name or number of such dwelling, if the same has a name or number, and if not, then with such description of the place that it can be readily ascertained and identified. If the elector be not the proprietor or head of the house, then it must show that fact, and upon what floor thereof, and what room such elector occupies in such house; all of which facts are to be ascertained from such elector in the manner required by law for proving the qualification of electors to entitle them to be registered. Any person making a false oath with respect to residence, or any other fact lawfully demanded of him, as provided for in this Act, shall be deemed guilty of perjury, and, on conviction, punished accordingly.

SEC. 103. A sufficient quantity of blanks for Precinct Registers for all the precincts of such city and county, shall be prepared and kept by said Election Commissioner at his office, so that voters may be registered, upon application and proper proof, according to law. Ninety days before each general election the Election Commissioner shall commence the registration of all voters entitled thereto, who apply with the proper proof, and no others. Such voters shall be registered in the Precinct Registers, for the precinct where they are entitled to vote, and not otherwise. Such registration shall continue at the office of the Election Commissioner until the Precinct Registers are turned over to the Board of Precinct Registration, as hereinafter provided for, when it shall cease at said office. Such registration shall be made subject to the rules herein provided for the Board of Precinct Registration.

SEC. 104. There shall be a Board of Precinct Registration in each precinct in such city and county, which shall be constituted in the following manner: The Board of Election Directors shall, in the months of August and September preceding any general election, have divided the city and county into election precincts as hereinbefore provided for, shall proceed, in the manner provided in this Act, to appoint the one original Inspector and the two original Judges of Election provided for by the Political Code, for each precinct.

Said Inspector and Judges shall serve for one year, unless otherwise ordered by the Directors, and in addition to acting as election officers at all elections during the year, shall serve as precinct registering officers for enrolling the election of their respective precincts on the Precinct Registers thereof. All other election officers shall be appointed by the Board of Election Directors, at such time as shall be necessary before the election.

SEC. 105. Said Boards of Precinct Registration shall meet in the places provided in their respective precincts for such purpose by the Election Commissioner, commencing five days (not counting Sundays or legal holidays) before the day fixed by this Act for the cessation of the registration of electors in such city and county, and shall sit in open session from nine o'clock A. M. until ten o'clock P. M. of each day, until the day of such cessation (Sundays and legal holidays excepted), to receive and act upon applications for registration on the part of the voters of said precinct. They shall organize by electing one of their number Chairman. They shall receive the applications for registration of such male residents of their several election precincts as then are, or on the day of election next following the day of making such application would be, entitled to vote therein, and who shall personally present themselves, with proper evidence of their rights, and such only; *provided*, they shall not register citizens who have lost or who are not in possession of their naturalization certificates or papers.

SEC. 106. It shall be the duty of the Election Commissioner to provide suitable places in each precinct for the sessions of the Board of Precinct Registration. He shall also furnish them with blanks, stationery, and all other matters and things necessary to enable them to conveniently and speedily perform the duties devolving upon them under this Act. He shall also give such Boards his assistance and advice in organizing and conducting the registration of voters, and other matters required of them by law, and shall visit said Boards, while engaged in said duty, and see that said proceedings are conducted according to law, and the registers made in due form. He shall be allowed free access to the Precinct Registers at all times; and within such reasonable limits as the Board of Election Directors shall prescribe, the public shall have access thereto in like manner. The members of the Boards of Precinct Registration shall have power to administer oaths and affirmations, as shall all election officers, and to take testimony, in the discharge of their duties.

SEC. 107. As soon as the Boards of Precinct Registration shall have commenced their sittings for registration in the several precincts, as herein provided for, three Precinct Registers shall be delivered by the Election Commissioner to said respective Boards, who shall keep one register and personally make entries therein, go on with the registration of voters at the places provided by law for them in their respective precincts until the time provided by law for registration to cease, when all registration shall stop, except in

the cases especially provided for in this Act. It shall be the duty of the Board of Precinct Registration, in addition to their other duties, to carefully examine and revise the names of voters upon their several Precinct Registers, as delivered to them by the Election Commissioner, and to ascertain if such names are the names of legal voters, properly on said Precinct Register, and entitled to vote in said precinct. The Boards of Precinct Registration, on each day of registration, and before adjourning, shall, on each of the registers, draw, in ink, immediately below the last number and name entered in the allotted space of each letter of the alphabet, and below the last written words and figures entered opposite to or against such name, a heavy line, as indicative of the fact that the entering of names on the said registers for the day mentioned in the column headed "date of application," and opposite to or against the name last entered, then ceased.

SEC. 108. The Boards of Precinct Registration shall keep the several Precinct Registers for such time as shall be necessary, not to exceed three days after the time for registration ceases according to law, during which time they shall hear and determine applications for registration in the excepted cases provided for in this Act. They shall also make diligent examination and inquiry during said period as to the right of the respective voters, who have been registered on said Precinct Register, to such registration, and shall in all doubtful cases certify their doubts, with the reason thereof, to the Board of Election Directors, for further action. All persons who have been refused registration by the Election Commissioner, or by the Precinct Board, can appeal to the Board of Election Directors, who shall hear and determine the same in a summary manner, so as not to delay the completion of the registers.

SEC. 109. When the Board of Precinct Registration have completed the examination and inquiry provided for in the preceding section, they shall certify the Precinct Register as is hereinafter provided, and deliver the same to the Election Commissioner. Such delivery shall be made not later than three full days after the cessation of registration, as provided by law. They shall at the same time prepare and duly certify a separate and distinct list, showing the names of all persons concerning whose right to registration they are in doubt, together with the grounds and reasons for such doubt. Such list and certificate shall be delivered to the Election Commissioner at the same time with the Precinct Register. Proper blanks shall be prepared and furnished by the Election Commissioner for the purpose of making the return of doubtful names on the registers, and also blank certificates, and all other necessary things for said purpose. The registers, written by the Judges, shall be retained and securely kept by the Inspector for use on the day of election, and shall be the registers used by the Board of Election during the polling of the vote, as prescribed in the Political Code; and said registers shall be delivered to the Election Commis-

sioner, with the election returns, on the conclusion of the canvass of the votes polled.

SEC. 110. The certificate to be attached to the Precinct Register shall be substantially in the following form, to wit: "We, the undersigned, Inspectors and Judges of Election forming the Board of Precinct Registration for the — Precinct of the — Ward of the City and County of —, do jointly and severally certify that on the — day of —, 18—, we met and organized as such Board, at the place appointed by law for the holding thereof in said precinct. That the Precinct Register was delivered to us by —, Esquire, Election Commissioner for such city and county, containing at the time of its delivery to us the names of (stating number) voters. That we have examined and inquired into said list to the best of our ability, and have noted all doubtful registration thereon. We also certify that we sat as a Board of Precinct Registration at said place, —, from the — day of —, till the — day of —, 18—, and have admitted to registration (showing number) citizens, whose names and other matters of qualification will appear upon the foregoing register, and that the whole number of qualified voters upon said register is (number).

"Dated —, 18—.

"(Signed),

—.

"(Signed),

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"(Signed),

—."

SEC. 111. The certificate to be annexed to the list of doubtful names shall be substantially in the following form, to wit: "We, the undersigned, composing the Board of Precinct Registration for the — Precinct of the — Ward of the City and County of —, hereby certify that the accompanying list shows all the names and other matters of qualification of voters upon the Precinct Register for said precinct about whose right to registration we entertain a reasonable doubt, together with a statement of the cause or grounds for such doubts.

"Dated, —, 18—.

"(Signed),

—.

"(Signed),

—.

"(Signed),

—."

SEC. 112. It shall be the duty of the Election Commissioner to forthwith notify all persons certified as doubtful of said fact, and to cite them before the Board of Election Directors, as provided in this Act, in cases where the Election Commissioner has reason to believe persons have been improperly registered, and the same proceedings shall be had as to citation and cancellation as provided for in said section.

SEC. 113. Fifteen days before a general election all registration or enrollment of voters shall cease, and the Precinct Registers, as they stand, shall be the Precinct Registers for said ensuing election, and until the next general election, subject only to changes in the following cases:

I. All that for any reason are illegally on the Precinct Registers, shall be canceled.

H. Any name that has been once lawfully on the Precinct Register, so as to entitle the person to vote at said ensuing election, and which has been by fraud, mistake, or otherwise improperly removed or canceled, may be restored on proper evidence thereof.

III. Any legal voter who applied in time for enrollment on a Precinct Register, and through any fault or neglect of the Election Commissioner, or Board of Precinct Registration, or for want of time on the last day, he having duly applied and produced the necessary and legal proof of his right on said day, has his name left off, may have the same put on afterwards on showing that he applied in time, and that it was through no fault or neglect of his own that it was left off.

Any voter entitled to have his name upon the Precinct Register under the terms of either of the two preceding subdivisions, and no others, may have the same placed upon the Supplementary Register provided for in the next section, within five days from the time herein provided for the cessation of enrollment on the Precinct Register. Any person who does not so apply, within said time, shall not be enrolled on the Precinct Register of said election; *provided*, that nothing in this section shall be deemed to prevent any lawful changes, additions, and supplements to said Precinct Registers after the general election and prior to any special election thereafter, to be made under the regulations fixed by the Board of Election Directors, and to be used at other than general elections.

SEC. 114. As soon as the Election Commissioner shall receive the Precinct Register from any Board of Precinct Registration, he shall proceed with the greatest diligence to cause said Precinct Register to be printed, and the same shall be printed and copies of them posted in his office for public inspection within six days. He shall also ascertain the correctness of said Precinct Registers, and cancel all names not legally thereon; and shall prepare a supplemental list for each precinct showing the cancellations and additions to the regular list made after the publication of the same, which supplemental list shall be printed and posted, in like manner, five days before the election, after which no changes shall be made; *provided*, that all cancellations and additions to the registers made by the Election Commissioner shall be subject to the approval of the Board of Election Directors.

SEC. 115. Not less than ten days before the day for the sitting of the Boards of Precinct Registration, the Election Commissioner shall cause an advertisement to be printed, for ten consecutive days, in three daily morning and three daily evening newspapers, and a weekly (including the official paper) published in such city and county, giving notice to the voters of such city and county that the time for the enrollment of voters on the Precinct Registers will expire on a certain day, naming the day fixed in this Act for the last day of registration, and inviting them to present themselves for registration at the place of the meeting of said Boards, which shall be named, within the time, under the penalty of being

debarred the privilege of voting at such election. Such notice shall specify the day upon which the precinct registration by the Board of Precinct Registration shall commence, and also the day upon which it is to end.

SEC. 116. Any elector who has been legally registered in the Precinct Register, provided he has not lost his right to vote in his precinct, shall not be required to renew such registration until the making up, as herein provided, of the Precinct Register for the next ensuing general election after the election for which such registration was made, but may vote in such precinct at any election taking place before such general election. The Precinct Registers shall be printed in sufficient numbers to allow for their being used at all the elections likely to occur before the next general election after the one for which the registration is made, and all necessary changes or additional names shall be noted upon the register for each special election thereafter, or added into supplements thereto, conformatory, so far as the same is applicable, to the provisions of the law governing the making of the general election register. The Board of Election Directors are empowered to make rules governing such supplemental registration for special elections.

SEC. 117. The Election Commissioner shall procure rooms or places both for the sitting of the Board of Precinct Registration as well as for polling places, subject to the approval of the Board of Election Directors, both as to location and cost.

SEC. 118. All provisions for carrying out the registration and election laws in such city and county shall be made by the Board of Election Directors, and demands on the treasury authorized or allowed by them for such purposes shall be paid in the same manner as other demands, after approval of the same by the Municipal Council.

SEC. 119. All the provisions of the Political Code touching the registration and qualification of voters, and the method of calling, holding, and conducting elections in force in such city and county, shall continue in force therein, so far as they are not inconsistent with the provisions hereof, until repealed or modified.

SEC. 120. It shall be unlawful for any committee, club, convention, or other association formed or acting as such, for the purpose of nominating a candidate or candidates for office in such city and county, to levy, assess, collect, demand, or receive, directly or indirectly, any money or other valuable thing, from any candidate or candidates coming before such body for a nomination, or who shall be nominated by them for office, upon any pretense whatsoever. Any officer or member of any such convention, committee, club, or association, or other person, who shall vote for, authorize, assist, or consent to any such demand, levy, assessment, or collection, or any candidate or person who shall pay the same, shall be deemed guilty of a misdemeanor, and, on conviction in any Court of competent jurisdiction, punished accordingly.

SEC. 121. There shall be in every such city and county a Board of Police Commissioners, consisting of three Commiss-

sioners, to be appointed by the Board of Aldermen. The first three Commissioners appointed under this Act shall, immediately after their appointment, so classify themselves by lot that one of them shall go out of office in two years, one of them in three years, and one of them in four years after his appointment, and thereafter on the expiration of the term of office of any one of said Commissioners. The said Board shall appoint a Commissioner to fill the office, who shall hold office for four years; *provided, however,* that the Board of Police Commissioners now in office shall continue to hold office for the term of four years from the date of their appointment.

SEC. 122. The said Board of Police Commissioners shall meet in such city and county within ten days after the taking effect of this Act, and shall organize by electing one of their number as President.

SEC. 123. The Board of Police Commissioners shall appoint one Chief of Police, six Captains of Police, and as many police officers, not exceeding five hundred, as they may determine to be necessary. In making such appointments the Board shall not regard the political or partisan preferences or affiliations of the candidate or appointee; and it shall be the duty of such Board, on its first organization under this Act, to appoint as members thereof the members of any police force which shall be in service in such city and county at the time this Act goes into effect, unless such persons be incompetent, or be incapable to serve.

SEC. 124. Any person applying for appointment as a police officer under this Act, unless he be a member of a police force existing in such city and county at the time this Act goes into effect, shall produce and file with the Board of Police Commissioners a certificate, signed by not less than twelve freeholders and qualified voters of the smallest political subdivision of such city and county, stating that they have been personally and well acquainted with the applicant for one year or more next preceding the application, and that he is of good repute for honesty and sobriety, and they believe him to be in all respects competent and fit for the office. All such certificates shall be preserved in the office of said Board, and shall not be returned to the applicant. Every appointee to such Police Department must be a citizen of the United States and of this State, and of good character for honesty and sobriety; able to read and write the English language, and a resident and qualified voter of the city and county in which he applies for appointment; and in case he be not a member of a Police Department existing in such city and county at the time this Act goes into effect, he shall be under the age of fifty-five years, and not less than five feet seven inches in height; and after his nomination, and before his appointment, shall pass a thorough examination by any reputable physician designated by said Board of Police Commissioners, and be found, on such examination, to be in sound health, and to possess the physical qualifications required for recruits for the United States army.

SEC. 125. In the suppression of any riot, public tumult, disturbances of the public peace, or organized resistance against the laws or public authorities in the lawful exercise of their functions, the Chief of Police shall have all the powers that now are or may be conferred upon Sheriffs by the laws of this State, and his lawful orders shall be promptly executed by all police officers in such city and county; and every citizen shall also lend him aid, when required, for the arrest of offenders and the maintenance of public order. He shall keep a public office, which he shall open, and at which he, or in case of his necessary absence, a Captain of Police, or police officer by him designated for that purpose, shall be in attendance at all hours, day and night. In case of his necessary absence from his office, it shall be made known to the police officer in attendance where he can be found, if needed. He shall designate one or more out of the number of police officers to attend constantly upon the Police Court, to execute the orders and process of the said Court. He shall supervise and direct the police force of such city and county, and shall observe and cause to be observed the provisions of this Act, and enforce within such city and county all general and local laws. He shall see that the lawful orders and process issued by the Police Court are promptly executed, and shall exercise such other powers connected with his office, as head of police, as may be prescribed in the general regulations adopted by the Municipal Council or the Board of Police Commissioners. He shall acquaint himself with all statutes and laws in force in this State defining public offenses and nuisances and regulating criminal proceedings, and shall procure and keep in his office the statutes of this State and of the United States, and all elementary works on that subject. He shall give information and advice touching said laws gratuitously to all police officers and magistrates asking it.

SEC. 126. Neither the Chief of Police, Captains, or any officer of police shall devote their time to any other profession or calling, become bail for any person charged with any offense whatever, nor solicit counsel or attorneys for prisoners, receive any presents or reward for official services rendered or to be rendered, unless with the knowledge and approbation of a majority of the Police Commissioners, such approbation to be given in writing; nor to be allowed pay for any period during which they shall absent themselves from public duty, unless such absence necessarily result from indisposition or disability, occasioned by injuries suffered while in the discharge of official duty.

SEC. 127. Police officers in subjection to the orders of their respective Captains, and all under the general direction of the Chief of Police, shall be prompt and vigilant in the detection of crime, the arrest of public offenders, the suppression of all riots, frays, duels, and disturbances of the public peace, the execution of process from the Police Court, in causing the abatement of public nuisances, and the enforcement of the laws and regulations of police.

SEC. 128. In case of great public emergency or danger,

the Chief of Police may appoint an additional number of policemen of approved character for honesty and sobriety, who shall have the same powers as other police officers for twenty-four hours only, but without pay.

SEC. 129. The salaries of the officers who shall be appointed under this Act shall be as follows, and payable in monthly installments, at the end of each and every month, viz.:

1. The President of the Board of Police Commissioners shall receive a salary of one thousand five hundred dollars per annum; the other two Police Commissioners shall each receive a salary of one thousand two hundred dollars per annum.

2. The Chief of Police shall receive a salary of four thousand dollars per annum.

3. Captains of Police shall each receive a salary of one thousand eight hundred dollars per annum.

4. Police officers who shall be selected to act as Sergeants of Police shall each receive a salary of one thousand five hundred dollars per annum.

5. The police officers who shall be selected to act as detective police officers shall each receive a salary of one thousand five hundred dollars per annum.

6. The Clerk of the Chief of Police shall receive a salary of one thousand eight hundred dollars per annum.

7. The Property Clerk shall receive a salary of one thousand eight hundred dollars per annum.

8. Police officers not selected to perform the duties of Sergeants of Police, of detective police officers, of Clerk of Chief of Police, or of Property Clerk, shall each receive a salary of one thousand two hundred and twenty-four dollars per annum, subject to the condition that the Treasurer of such city and county shall detain from the pay of each police officer the sum of two dollars per month, to be paid into a fund to be known as the "Police Life and Health Insurance Fund," which fund shall be administered as hereinafter provided.

SEC. 130. The Mayor, Auditor, and Treasurer of any such city and county, shall constitute a Board known as "The Police Life and Health Insurance Board." The said Board shall, from time to time, as in their judgment may be best, invest the moneys of "The Police Life and Health Insurance Fund," in such of the following securities as shall seem the most safe and profitable, namely: The bonds of the City and County of San Francisco; the bonds of the State of California; the bonds of the United States of America; and the securities shall be held by said Treasurer, subject to the order of said Board; and the said Treasurer shall have no power to deposit, pledge, or in any other way part with the possession of said securities, or the evidence thereof, except on the order of said Board. Upon the death of any member of such police force, there shall be paid by the Treasurer, out of said "Life and Health Insurance Fund," to the heirs of said police officer, the sum of one thousand dollars.

SEC. 131. In case any police officer shall resign from bad health or bodily infirmity, there shall be paid to him from

said fund the amount of the principal sum which he shall have contributed thereto.

SEC. 132. In case of dismissal of any police officer for mere incompetency, not coupled with any offense against the laws of the State, such officer shall be paid from said fund such amount as the Board may award, not exceeding one-half of the sum he may have contributed to said fund.

SEC. 133. Any officer dismissed for gross neglect or violation of duty, or upon conviction of any misdemeanor or felony, shall forfeit all claim upon said fund.

SEC. 134. In case such fund shall not be sufficient to pay the demand upon it, such demand shall be registered and paid in order of its registry out of the funds as received.

SEC. 135. The said Mayor, Auditor, and Treasurer shall receive no compensation for their services as members of said Board, nor shall the said Treasurer receive any compensation as treasurer and custodian of said funds, but he and his sureties on his official bonds shall be liable at the suit of any person or persons aggrieved for any loss of said fund, or the misappropriation of any securities of "The Police Life and Health Insurance Fund."

SEC. 136. The term of office of Chief of Police shall be four years from the time of his appointment.

SEC. 137. Members of the police force, other than the Chief of Police, shall be subject to removal only upon trial before said Board for official negligence, inefficiency, misconduct, oppression, or any conduct unbecoming a gentleman. Charges of official negligence, inefficiency, misconduct, oppression, or any conduct unbecoming a gentleman, when presented by the Chief, or a Captain, or Sergeant of Police, or by a citizen of such city and county, in a verified complaint, and setting forth the specific acts complained of, shall be received and be attentively considered and determined by the Board of Police Commissioners, giving to the accused due notice, and an impartial hearing in defense; and on such proceeding said Board may reprimand, suspend from pay, or dismiss the delinquent officer. Frequenting drinking houses or saloons by regular or special members of the police during the hours assigned for duty, shall be deemed to be official negligence, for which they may be suspended or removed.

SEC. 138. The President of the Board of Police Commissioners and Chief of Police shall have power to administer oaths and affirmations relating to their official duties.

SEC. 139. The Chief of Police shall have power to select and designate one police officer to serve as Clerk to the Chief of Police, and one police officer to serve as Property Clerk, and twelve detective officers. The Sergeants of Police shall be selected by the Board of Police Commissioners, and perform such duties as may be designated by said Board, or the Chief of Police.

SEC. 140. No member of said Board of Police Commissioners, appointed as herein provided for, shall be eligible to any other office during his incumbency of the office of Police Commissioner. No member of said Board of Police Com-

missioners shall, during his term of office, be a member of any party convention, the purposes of which is to nominate candidates for office. Nor shall the officers, members, or employés of said police force take any part whatever in any partisan convention held for the purpose of a political party. Nor shall any member of said Board of Police Commissioners, directly or indirectly, attempt to influence or control the action of any member of said police force, or any employé thereof, in any primary or general election. Nor shall any member of said police force be a member of any political club, or take part in the organization of such club. No member of such police force shall be allowed to interfere in politics on the day of election, or at any other time, while employed on said police force; *provided*, that no member of the police force shall be excluded from becoming a candidate for the office of Chief of Police; nor shall be removed from office for political or partisan causes, reasons, or purposes. Any violation of the provisions of this section shall be deemed a misdemeanor, and, on conviction, punished accordingly.

SEC. 141. The Police Commissioners appointed under this Act shall hold their meetings in the office of the Chief of Police, or in such other convenient place as the Municipal Council shall designate, or, in case of emergency, at such place as said Police Commissioners shall select; and the Clerk of the Chief of Police shall act as Clerk of said Board of Commissioners.

SEC. 142. The Chief of Police, Captains, and every officer of the permanent force, shall provide themselves with a uniform and badge of office, to be prescribed by regulations of the Board of Police Commissioners, which shall be worn by them upon all occasions, with such exceptions as may be permitted by the Chief of Police in the performance of detective duty.

SEC. 143. Said Board of Police Commissioners shall have power to appoint substitutes, not to exceed three per cent. of said police force, to serve under such regulations and subject to such restrictions as may be prescribed by said Board, and without pay from such city and county.

SEC. 144. It shall be lawful for the Police Commissioners to appoint a special officer, upon the petition of any persons, firms, or corporations, specifying the boundary or locality at or within which he is to act as such special officer, which boundary or locality shall be specified in his warrant of appointment, to do a special service, to be paid by such persons, firms, or corporations so petitioning: *provided*, that no special officer shall be appointed in any part of such city and county known as the Chinese quarter. Any special officer asking for, soliciting, demanding, collecting, or receiving, or causing others to do so for his benefit, any money or other valuable thing, upon pretense of guarding or protection of the persons or property of the persons from whom the same shall be asked, demanded, solicited, collected, or received, except the persons, firms, or corporations so peti-

tioning for his said appointment, or residing within the boundary or locality, or having interests in such locality or boundary, for which such special officer is appointed and named in said warrant, shall be guilty of a misdemeanor, and, on conviction, punished accordingly, and shall be dismissed from the service.

SEC. 145. The Police Commissioners of such city and county, or a majority of them, are authorized to allow, out of the Police Contingent Fund, any and all orders signed by the Chief of Police of such city and county; *provided*, that the aggregate of said orders shall not exceed the sum of seven thousand two hundred dollars per annum, which sum shall be set apart annually to such fund from the General Fund in the treasury of such city and county by the Municipal Council. The Auditor of such city and county shall audit, and the Treasurer thereof shall pay, out of said Police Contingent Fund, any and all orders so allowed as aforesaid by the said Police Commissioners, not exceeding in the aggregate said sum of seven thousand two hundred dollars per annum.

SEC. 146. There shall be a Board of Fire Commissioners of such city and county consisting of five persons possessing the same qualifications of eligibility as are herein prescribed for the members of the Board of Aldermen, who shall be appointed by the Board of Aldermen, and shall hold office for the term of four years from and after the time of their appointment; *provided*, that the Fire Commissioners now acting as such in such city and county, shall continue to hold their respective offices until the expiration of the term for which they may have been respectively elected or appointed.

SEC. 147. The said Board of Fire Commissioners shall supervise and control said Fire Department, its officers, members, and employés, subject to the laws governing the same, and shall see that the officers, members, and employés thereof faithfully discharge their duties, and that the laws, orders, and regulations relating thereto are carried into operation and effect. They shall not, nor shall either of them, or the Chief Engineer, or Assistant Chief Engineer, or Assistant Engineers of said Fire Department, be interested in any contracts pertaining in any manner to said Fire Department, or the sale, furnishing of apparatus or supplies for the same; and all contracts in violation of this section are declared void, and any of said persons violating the provisions of this section shall be deemed guilty of misdemeanor, and, upon conviction, shall be punished accordingly. The Municipal Council of such city and county shall have power to contract and provide for all cisterns, hydrants, apparatus, horses, supplies, engine, hose, and hook and ladder houses, and all alterations and repairs required; and said Board of Fire Commissioners shall supervise all contracts awarded and work done for the said Fire Department, and shall see that all contracts awarded and work done are faithfully performed. The said Board of Fire Commissioners shall have power to prescribe the duties of the officers, members,

and employés of said Fire Department, and to adopt rules and regulations for the management and discipline thereof; and a majority of them shall certify to the correctness of all claims and demands, before the same shall be paid. And the Municipal Council is authorized and required to provide and furnish for the use of said Board of Fire Commissioners a suitable room or rooms in some of the buildings of such city and county, to serve as an office for their meetings and the transaction of business relating to said Fire Department, in which their Clerk, Janitor, and Messenger shall be in attendance daily during office hours. The Chief Engineer, Assistant Chief Engineer, and Assistant Engineer of said Department shall also make it their headquarters daily during office hours, when not otherwise engaged in official duties. And the said Municipal Council shall furnish the Chief Engineer, and also the Assistant Chief Engineer hereinafter mentioned, with a horse and buggy, and shall provide for keeping the same.

SEC. 148. The officers of the Fire Department of such city and county shall be:

1. Five Fire Commissioners, to be appointed as aforesaid.
2. One Chief Engineer.
3. One Assistant Chief Engineer.
4. Four Assistant Engineers.
5. One Superintendent of Steam Fire Engines.

SEC. 149. The members and employés of said Fire Department shall be:

1. One Assistant Superintendent of Steam Fire Engines.
2. One Clerk and Storekeeper for the Corporation Yard.
3. One Corporation Yard Drayman.
4. One Night Watchman of the Corporation Yard.
5. Two Hydrantmen.
6. One Veterinary Surgeon.
7. One Foreman of each company.
8. One Engineer for each steam fire engine.
9. One Substitute Engineer and Machinist.
10. One Driver for each company.
11. One Fireman for each Steam Engine Company.
12. One Carpenter.
13. One Tillerman for each Hook and Ladder Company.
14. One Steward for each Hose Company.
15. One Janitor and Messenger.
16. One Clerk.

SEC. 150. All paid members of said Fire Department, except the Veterinary Surgeon, Foreman, Assistant Foreman, Company Clerks, Hosemen, Hook and Laddermen, and Stewards of Volunteer Companies, shall give their undivided attention to their respective duties; but the Foreman, Assistant Foreman, Company Clerks, Hoseman, and Hook and Laddermen, and Stewards of Volunteer Companies, shall perform such duties as may be prescribed from time to time by said Board of Fire Commissioners and ordered to be executed by the Chief Engineer.

SEC. 151. The Chief Engineer, the Assistant Chief Engineer, the Superintendent of Steam Fire Engines, the Assistant

Engineers, the Clerk, and all members and employés of the Fire Department, shall be appointed by the Fire Commissioners, and retain their positions during good behavior; and it shall be the duty of such Fire Commissioners, on their first organization under this Act, to appoint as members thereof the officers and members of any fire department which shall be in service in any such city and county at the time this Act goes into effect. No officer, member, or employé of said fire department shall be removed for political reasons.

SEC. 152. The Fire Department of such city and county shall consist of such engine, hook and ladder, and hose companies as shall be recommended by the Board of Fire Commissioners, and determined by the Municipal Council necessary to afford protection against fire; *provided*, that as an auxiliary thereto, patent fire extinguishers may also be purchased and employed, if, in the judgment of said Board, deemed advisable; *provided*, that no hand engine shall hereafter be purchased for the use of said department, but such as shall be in the possession of such city and county prior to its organization under this Act may be used in such localities and under such regulations as the Board of Fire Commissioners may prescribe. The companies of said department shall be organized as follows: Each steam fire engine company shall consist of (1) one Foreman, one (1) Engineer, one (1) Driver, one (1) Fireman, and eight (8) Hosemen; one (1) of whom shall act as Assistant Foreman, and one (1) as Clerk. Each hook and ladder company shall consist of one (1) Foreman, one (1) Driver, one (1) Tillerman, and twelve (12) Hook and Laddermen; one (1) of whom shall act as Assistant Foreman, and one (1) as Clerk. Each hose company shall consist of one (1) Foreman, one (1) Driver, one (1) Steward, and six (6) Hosemen, one (1) of whom shall act as Assistant Foreman, and one (1) as Clerk.

SEC. 153. The Chief Engineer shall be the executive officer of said Fire Department, and it shall be his duty (and that of the Assistant Chief Engineer and Assistant Engineers) to see that the laws, orders, rules, and regulations concerning the same are carried into effect, and also to attend to such duties as Fire Wardens as may be required, and to see that all laws, orders, and regulations established in such city and county to secure protection against fire are enforced. It shall also be the duty of the Chief Engineer to enforce the rules and regulations made from time to time to secure discipline in said Fire Department, and he shall have power to suspend any subordinate officer, member, or employé for a violation of the same, and shall forthwith report in writing, with his reasons therefor, to the Board of Fire Commissioners for their action. He shall diligently observe the condition of the apparatus and workings of said department, and shall report in writing, at least once in each week, to said Board of Fire Commissioners, upon the same, and make such recommendations and suggestions respecting it, and for securing its greater efficiency, as he may deem proper; and in the absence or inability of the Chief Engineer to act, the Assistant Chief Engi-

neer shall assume the duties of said office of Chief Engineer.

Sec. 154. The person elected as Clerk by said Board of Fire Commissioners shall, before entering upon the discharge of his duties, execute a bond with two or more sureties, in the penal sum of twelve thousand (\$12,000) dollars, for the faithful discharge of his duties, which bond shall be approved by said Board of Fire Commissioners, and the Mayor of such city and county, and when so approved, shall be filed in the office of the Auditor. The amount of said bond may be increased from time to time, when directed by the Board of Fire Commissioners, should it deem it necessary for the public good; said Clerk shall attend daily, during office hours, at the office of the Board of Fire Commissioners (which shall be the office of the Chief Engineer, Assistant Chief Engineer, and Assistant Engineers); shall perform the duties of Clerk to said Board and Chief Engineer, and shall perform such other duties from time to time as said Board may prescribe. The Clerk and Storekeeper for the Corporation Yard shall, before entering upon his duties, furnish a bond in the sum of ten thousand (\$10,000) dollars, to be approved the same manner as the bond provided for in this section, to be given by the Clerk of said Board of Fire Commissioners, and filed with the Auditor.

Sec. 155. The Mayor of such city and county, upon the recommendation of the Board of Fire Commissioners, with the approval of the Municipal Council, is authorized to sell at private or public sale from time to time any or all of the engines, hose carriages, engine houses, lots on which such houses stand, or parts of lots (or to exchange any of said lots, when in their judgment demanded by the public good), or other property which shall not be required for the use of the department, and to execute, acknowledge, and deliver good and sufficient deeds or bills of sale for the same, paying the proceeds of such sales into the county treasury, to the credit of the proper fund.

Sec. 156. The Municipal Council of such city and county is hereby authorized and required to appropriate, allow, and order paid annually out of the General Fund of such city and county the salaries hereinafter specified and allowed, and salaries at similar rates to the several officers and men of any additional companies created as aforesaid, and the Municipal Council is required to appropriate, allow, and order paid, out of the General Fund, a sum not to exceed eighty thousand (\$80,000) dollars annually for running expenses, horse feed, repairs to apparatus, and for the construction and erection of cisterns and hydrants, and for the erection and repair of buildings, and other expenses of the Fire Department. To appropriate a sum not to exceed thirty thousand (\$30,000) dollars for the purchase of horses and apparatus for the Fire Department.

Sec. 157. Whenever a member of the Paid Fire Department of such city and county shall become disabled by reason of injuries received at any fire, so as to be unable to perform his duties, the Municipal Council, upon the recommendation of the Board of Fire Commissioners, is hereby author-

ized and empowered to allow said disabled man a sum not exceeding fifty (\$50) dollars per month, for not to exceed three (3) months, payable out of the General Fund of such city and county, in the same manner and form as other payments are made out of said fund.

SEC. 158. The Chief Engineer shall have power to appoint one member of each company to act as Assistant Foreman; also, one member to act as Clerk; said Clerk to receive five (\$5) dollars per month extra pay.

SEC. 159. The Fire Commissioners shall organize said Board immediately upon their appointment, and on the first Monday after the first day of January of each and every year thereafter, by selecting one of their number as President, and they shall meet at least once in each month publicly at their office, to transact the business of said Fire Department; and, in addition to the stated meetings, they shall meet twice in each month for the purpose of investigating charges against officers, members, and employés of said department for violating any of the rules and regulations thereof; and shall hold such intermediate sessions as they shall deem necessary to the proper administration of the Fire Department. No person shall be eligible to any position in said department who is not a citizen of the United States, or a resident of such city and county at least two years, nor under twenty-one (21) years of age at the time of his appointment.

SEC. 160. In all investigations for violation of the rules and regulations of the Fire Department, the President of the Board of Fire Commissioners shall have power to issue subpoenas, and administer oaths, and compel the attendance of witnesses before him by attachment or otherwise. All subpoenas issued by him shall be in such form as he may prescribe, and shall be served by any police officer, or by any peace officer, of such city and county. Any person who refuses to attend or testify in obedience to such subpoenas, shall be deemed guilty of contempt, and be punished by him as in cases of contempt in Justices' Court in civil cases.

SEC. 161. No officer, member, or employé of the Fire Department shall be dismissed, unless for cause, nor until after a trial. The accused shall be furnished with a written copy of the charges against him at least five (5) days previous to the day of trial, and he shall have an opportunity to examine witnesses in his behalf, and all witnesses shall be examined under oath, and all trials shall be public.

SEC. 162. The Municipal Council of such city and county is hereby authorized and empowered to establish and maintain at the Corporation Yard a workshop for making repairs and improvements upon the apparatus of the Fire Department; and such workshop, and such repairs and improvements, to be under the supervision of the Board of Fire Commissioners, and the Municipal Council shall allow and order paid out of the proper fund all the expenses of such workshops, repairs, and improvements.

SEC. 163. No member of said Board of Fire Commissioners shall, during his term of office, be a member of any party

convention, the purpose of which is to nominate candidates for political office; nor shall the officers, members, or employés of said Fire Department take any part whatever in any partisan convention, held for the purposes of a political party; nor shall any member of the said Boards of Fire Commissioners directly or indirectly attempt to control or influence the action of any member of said Fire Department, or any employé thereof, in any primary or general election. No member of the Fire Department shall levy, collect, or pay any amount of money as an assessment or contribution for political purposes. Any violation of the foregoing provisions of this section shall be deemed a misdemeanor.

SEC. 164. The salaries of the officers of the Fire Department shall be paid in monthly installments, and as follows:

*First*—The salary of the Fire Commissioners shall be one thousand two hundred dollars per annum.

*Second*—The salary of the Chief Engineer shall be three thousand dollars per annum.

*Third*—The salary of the Assistant Chief Engineer shall be two thousand four hundred dollars per annum.

*Fourth*—The salaries of the Assistant Engineers shall each be one thousand eight hundred dollars per annum.

*Fifth*—The salary of the Superintendent of Steam Fire Engine shall be one thousand eight hundred dollars per annum.

SEC. 165. The salaries of the members and employés of the Fire Department shall be paid in monthly installments, and as follows:

1. The salary of Assistant Superintendent of Steam Fire Engine shall be one thousand six hundred and eighty dollars per annum.

2. The salary of the Clerk and Storekeeper for the Corporation Yard shall be one thousand five hundred dollars per annum.

3. The salary of the Corporation Yard Drayman shall be one thousand and eighty dollars per annum.

4. The salary of the Night Watchman for the Corporation Yard shall be nine hundred dollars per annum.

5. The salary of the two Hydrantmen shall be one thousand and eighty dollars per annum each.

6. The salary of the Veterinary Surgeon shall be twelve hundred dollars per annum.

7. The salary of the Foreman of each company shall be five hundred and forty dollars per annum.

8. The salary of the Engineer for each Steam Fire Engine Company shall be one thousand six hundred and eighty dollars per annum.

9. The salary of the Substitute Engineer and Machinist shall be one thousand six hundred and eighty dollars per annum.

10. The salary of the Driver for each company shall be one thousand and eighty dollars per annum.

11. The salary of the Fireman for each Steam Fire Company shall be one thousand and eighty dollars per annum.

12. The salary of the Carpenter for said department shall be one thousand two hundred dollars per annum.

13. The salary of the Tillerman for each Hook and Ladder Company shall be one thousand and eighty dollars per annum.

14. The salary of the Steward for each Hose Company shall be nine hundred and sixty dollars per annum.

15. The salary of each Hoseman and each Hook and Laderman shall be four hundred and eighty dollars per annum.

16. The salary of the Janitor and Messenger shall be nine hundred dollars per annum.

17. The salary of the Clerk of the Board of Fire Commissioners shall be one thousand eight hundred dollars per annum.

SEC. 166. There shall be maintained and provided for by the Municipal Council in such city and county a Fire Alarm and Police Telegraph for municipal use, and the Superintendent thereof shall be appointed by the Board of Fire Commissioners, to serve during its pleasure, except that he shall not be removed for political causes, reasons, or purposes. Said Superintendent is authorized to appoint the following officers and employés: One Chief Operator, three Operators, one Repairer, two Assistant Repairers, and one Batterymen. It shall be the duty of such Board, on their first organization under this Act, to appoint as officers and employés thereof, the officers and employés of any Fire Alarm and Police Telegraph which shall be in service in such city and county at the time this Act goes into effect.

SEC. 167. The salaries of the officers of said Fire Alarm and Police Telegraph shall be paid in monthly installments, and as follows:

1. The salary of the Superintendent shall be two thousand four hundred dollars per annum.

2. The salary of the Chief Operator shall be one thousand eight hundred dollars per annum.

3. The salary of each of the three Operators herein provided for shall be one thousand five hundred dollars per annum.

4. The salary of the Repairer shall be one thousand two hundred dollars per annum.

5. The salary of each of the two Assistant Repairers herein provided for shall be one thousand and eighty dollars per annum.

6. The salary of the Batterymen shall be nine hundred dollars per annum.

SEC. 168. The Municipal Council shall appropriate such sum as may be necessary, not exceeding fifteen thousand dollars per annum, for the maintenance, repair, and extension of said telegraph, and to defray the cost of instruments and machinery therefor, and for such horses and vehicles as may be necessary for the use of said Superintendent.

SEC. 169. There shall be a Board of Health for such city and county, which Board shall consist of the Mayor of the city and county and five physicians in good standing, residing in such city and county, who shall be appointed by the

Governor, and who shall hold office for the term of four years, and until their successors are appointed and qualified; and in case any vacancy shall at any time occur in said Board by removal or resignation or otherwise, the same shall be filled by appointment by the Governor; *provided*, that nothing herein contained shall affect the terms of the members of the Board of Health of any such city and county appointed prior to the passage of this Act.

SEC. 170. The Mayor of such city and county shall be ex officio President of the Board of Health, and in his absence, at any meeting, the Board may elect a Chairman, who shall, for the time, be clothed with all the power of the President. Said Board shall hold a regular meeting at least once in each month, and at other times when called thereto by the President, or by a majority of the Board.

SEC. 171. Said Board of Health is hereby invested with general jurisdiction over all matters appertaining to the sanitary condition of such city and county, and over all quarantine regulations and the enforcement thereof, and hospitals and alms-houses, and all municipal institutions created and maintained for charitable purposes and not herein enumerated, within the corporate limits of such city and county, and adopt such orders, and regulations as may be necessary to the complete exercise of the powers hereinbefore enumerated, and may appoint or discharge such attendants and employés as may seem best to promote the public welfare.

SEC. 172. The members of said Board of Health shall receive no salary.

SEC. 173. Said Board of Health shall have power to appoint the following officers and employés, who shall receive the salaries hereinafter provided, payable in monthly installments at the end of each month, viz.:

1. One Health Officer, who shall be the executive officer of said Board, at a salary of twenty-four hundred dollars per annum.

2. One Quarantine Officer, at a salary of eighteen hundred dollars per annum.

3. One Secretary, at a salary of twenty-four hundred dollars per annum.

4. Six Health Inspectors and one Market Inspector, at a salary of twelve hundred dollars per annum each; one Messenger, at nine hundred dollars per annum.

5. One Superintendent of the City and County Hospital, who shall be a physician and graduate of some medical college in good standing, at a salary of twenty-four hundred dollars per annum.

6. One Resident Hospital Physician, at a salary of fifteen hundred dollars per annum.

7. One Hospital Steward, at a salary of twelve hundred dollars per annum.

8. One Hospital Matron, at a salary of nine hundred dollars per annum.

9. One Hospital Apothecary, at a salary of twelve hundred dollars per annum.

10. One Hospital Engineer, at a salary of nine hundred dollars per annum.

11. Two physicians and two surgeons to be selected from the Faculty of the Medical Department of the University of California, and two physicians and two surgeons to be selected from the Faculty of the Pacific Medical College, at such salary as the Board of Health may designate, not to exceed twelve hundred dollars each per annum, as visiting physicians and surgeons to the City and County Hospital.

12. One Alms-house Superintendent, at a salary of two thousand four hundred dollars per annum.

13. One Resident Alms-house Physician, at a salary of fifteen hundred dollars per annum.

14. One Alms-house Matron, at a salary of seven hundred and twenty dollars per annum.

15. One City Physician, at a salary not to exceed eighteen hundred dollars per annum.

16. One Assistant City Physician for the Industrial School and House of Correction, at a salary of twelve hundred dollars per annum.

17. One First Cook, at a salary of sixty dollars per month.

18. One Second Cook, at a salary of thirty-five dollars per month.

19. One Third Cook, at a salary of thirty dollars per month.

20. One Baker, at a salary of seventy-five dollars per month.

21. One Clerk, at a salary of forty dollars per month.

22. One Interpreter, at a salary of forty dollars per month.

23. One Ambulance driver, at a salary of forty dollars per month.

24. Sixteen Nurses, at a salary of thirty-five dollars each.

SEC. 174. The appointing power of all and every of the aforesaid officers and employés is vested solely in said Board of Health, and said Board shall have power to prescribe the duties of every and all of said officers and employés, and to remove the same at pleasure; and said Board of Health is hereby empowered to employ such additional employés as may be necessary to carry out the purposes of this Act, at such compensations as said Board of Health may fix.

SEC. 175. The salaries of the officers and employés of said Board of Health, and all other expenses legally incurred by said Board under the provisions of this Act, shall be payable out of the General Fund of the treasury of such city and county; and the Auditor of such city and county is hereby directed to audit all such demands, and the Treasurer of such city and county is hereby directed to pay the same out of said General Fund. The said Board of Health shall annually, upon the third Monday of April of each year, transmit in writing to the Municipal Council of such city and county an estimate of the amount money necessary to defray all of the expenditures of said Board of Health for the next fiscal year; and the Board of Health shall not expend in any one fiscal year an amount exceeding the amount of such estimate so transmitted by such Board of Health for such fiscal year allowed upon such estimate by the Municipal Council,

except in case of an epidemic of any contagious disease, when such Board of Health is hereby authorized to increase such expense as may be deemed necessary for the public safety, and all such expenses shall be payable out of the General Fund of such city and county at the same time and in the same manner provided for other expenses of said Board. Nothing in this Act shall be construed to authorize said Board of Health to contract for or purchase supplies for any of the charitable institutions placed under its control by this Act. All contracts for any of the work authorized by this Act to be caused to be performed by said Board of Health, shall be awarded by said Board to the lowest responsible bidder, after notice, for not less than five days, in two daily newspapers published in such city and county, under such regulations and requirements as said Board of Health may adopt.

SEC. 176. It shall not be lawful for any Superintendent or other principal officer in charge of any alms-house in such city and county to have or receive any perquisites, or to derive any income or revenue therefrom, either directly or indirectly, other than the salary allowed to him by the Board of Health; nor shall it be allowable for any subordinate officer or employé to have or receive any perquisite, either directly or indirectly; and it shall be the duty of the Board of Health to remove any such Superintendent, or other principal officer, or any subordinate officer, or employé, who violates any provision of this section. All fees authorized by any of the provisions of this Act, to be collected by any officer or employé of the Board of Health, shall be immediately paid by such officer or employé to the Secretary of said Board of Health, who shall, upon the first Monday of each month, pay the same into the treasury of such city and county, to be credited to the proper fund.

SEC. 177. Shipmasters bringing vessels into the harbor of any such city and county, and all masters, owners, or consignees having vessels in such harbor, which have on board any cases of Asiatic cholera, small-pox, yellow, typhus, ship fever, or any other contagious disease, must report the same, in writing, to the Quarantine Officer before landing any passengers, casting anchor, or coming to any wharf, or as soon thereafter as they or either of them become aware of the existence of either of these diseases on board of their vessels.

SEC. 178. No captain or other officer in command of any vessel sailing under a register, arriving at the port of any such city and county, nor any owner, consignee, agent, or other person having charge of such vessel, must, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any freight, passengers, or other persons from such vessels, until he has reported to the Quarantine Officer, presented his bill of health, and received a permit from that officer to land freight, passengers, and other persons.

SEC. 179. Every pilot who conducts into the port of any such city and county any vessel subject to quarantine, or examination by the Quarantine Officer, must:

I. Bring the vessel no nearer such city and county than is allowed by law.

II. Prevent any person from leaving such vessel, and any communication being made with the vessel under his charge, until the Quarantine Officer has boarded her and given the necessary orders and directions.

III. Be vigilant in preventing any violation of the quarantine laws, and report, without delay, all such violations that come to his knowledge, to the Quarantine Officer.

IV. Present the master of the vessel with a printed copy of the quarantine laws, unless he has one.

V. If the vessel is subject to quarantine, by reason of infection, place at the masthead a small yellow flag.

SEC. 180. Every master of a vessel subject to quarantine, or visitation by the Quarantine Officer, arriving in the port of any such city and county, who refuses or neglects either:

I. To proceed with and anchor his vessel at the place assigned for quarantine, when legally directed so to do; or,

II. To submit his vessel, cargo, and passengers to the Quarantine Officers, their inspection, examination, and direction, and furnish all necessary information to enable that officer to determine to what quarantine or other regulations they might respectively be subject; or,

III. To report all cases of disease, and of death, occurring on his vessel, and to comply with all the sanitary regulations of such port or harbor.

Is liable in the sum of five hundred dollars for every such neglect or refusal.

SEC. 181. All vessels arriving off the port of any such city and county from ports which have been legally declared infected ports, and all vessels arriving from ports where there is prevailing, at the time of their departure, any contagious, infectious, or pestilential diseases, or vessels with decaying cargoes, or which have unusually foul or offensive holds, are subject to quarantine, and must be by the master, owner, pilot, or consignee, reported to the Quarantine Officer without delay. No such vessel must pass within the bounds prohibited them by the Board of Health, until the Quarantine Officer has boarded her and given the order required by law.

SEC. 182. The Quarantine Officers must board every vessel subject to quarantine or visitation by him, immediately on her arrival, make such examinations and inspection of vessel, books, papers, or cargo, or of persons on board, under oath, as he may judge expedient, and determine whether the vessel should be ordered to quarantine, and if so, the period of quarantine.

SEC. 183. No captain, or other officer, in command of any passenger-carrying vessel of more than one hundred and fifty tons burden, nor of any vessel of more than one hundred and fifty tons burden having passengers on board, nor any consignee, owner, agent, or other persons having charge of such vessel or vessels, must, under a penalty of not less one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any passenger from the vessel

until he has presented his bill of health to the Quarantine Officer and received a permit from that officer to land such passengers, except in such cases as the Quarantine Officer deems it safe to give the permit before seeing the bill of health.

SEC. 184. The following fees shall be collected by the Quarantine Officer for giving a permit to land freight or passengers, or both; From any sailing vessel of less than five hundred tons burden, from any port out of this State, two dollars and fifty cents; five hundred and under one thousand tons burden, five dollars; each additional one thousand tons burden, or fraction thereof, an additional two dollars and fifty cents; for steam vessels, propelled in whole or in part by steam, of one thousand tons burden or less, five dollars, and two dollars and fifty cents additional for each additional one thousand tons burden or fraction thereof. But vessels not propelled in whole or in part by steam, sailing to and from any port or ports of the Pacific States of the United States, or Territories, and whaling vessels entering the harbor of any such city and county, are excepted from the provisions of this section.

SEC. 185. The Board of Health may enforce compulsory vaccination on passengers or variola-infected ships, or coming from ports infected with the same.

SEC. 186. The Board of Health shall establish quarantine grounds at such points and places as in its judgment may best conduce to public safety; may provide suitable hospitals whenever the same are required for the public safety, and furnish and supply the same with nurses and attachés, and remove thereto all persons afflicted with cholera, small-pox, yellow, typhus, ship fever, or other contagious diseases; *provided*, said quarantine grounds and hospitals shall not be established within one mile of the main land on the north side of the Bay of San Francisco.

SEC. 187. The Board of Health must cause to be kept a record of all births, deaths, and interments occurring in such city and county coming under the provisions of this Act. Such records, when filed, must be deposited in the office of the City and County Recorder, and produced, when required, for public inspection.

SEC. 188. Physicians and midwives must, on or before the fourth day of each month, make a return to the Health Officer of all births, deaths, and the number of stillborn children occurring in their practice during the preceding month. In the absence of such attendants, the parents must make such report within thirty days after the birth of the child. Such returns must be made in accordance with rules adopted by, and upon blanks furnished by, the Board of Health.

SEC. 189. No person shall deposit in any cemetery, or inter in any such city and county, any human body, without first having obtained and filed with the Health Officer a certificate, signed by a physician, or midwife, or Coroner, setting forth as near as possible the name, age, color, sex, place of birth, occupation, date, locality, and the cause of death of

deceased, and obtain from such Health Officer a permit. The physicians, when death occurs in their practice, must give the certificate herein mentioned. It shall be the duty of the said Board of Health to see that the dead body of a human being is not allowed to remain in any public receiving vault for a longer period than five days. At the expiration of that time it shall cause the body to be buried or to be placed in a vault, or niche, constituted of brick, stone, or iron, and hermetically sealed. It shall also be the duty of said Boards to require all persons having in charge the digging of graves, and the burial of the dead, to see that the body of no human being who has reached ten years of age shall be interred in a grave less than six feet deep, or if under the age of ten years, the grave to be not less than five feet deep. The Board of Health shall have entire charge of all cemeteries belonging to such city and county, and may employ a Superintendent thereof, at a salary not to exceed seventy-five dollars per month, the same to be paid out of the General Fund as the salaries of the other employés are paid.

SEC. 190. Superintendents of all cemeteries in any such city and county must return to the Health Officer on each Monday the names of all persons interred, or deposited, within their respective cemeteries during the preceding week, and no Superintendent of a cemetery, or any other person, can remove, or cause to be removed, or cause to be disinterred, any human body or remains that have been deposited in a cemetery without a permit therefor from the Health Officer, or by order of the Coroner.

SEC. 191. It shall be unlawful to disinter or exhume from a grave, vault, or other burial place within the limits of such city and county, the body or remains of any deceased person, unless a permit for so doing shall have been first obtained from the Health Officer of such city and county. Nor shall any body or remains disinterred, exhumed, or taken from any grave, vault, or other place of burial or deposit, be transported in or through the streets or highways of any such city and county, unless the person or persons removing or transporting such body or remains shall first obtain from the Health Officer a permit, in writing, therefor, as aforesaid. But when an applicant for a permit to disinter a body shall desire to remove said body beyond the limits of such city and county, and shall so state on making application, the permit, if the same be issued, shall include the right to disinter and remove, and said permit shall accompany the body or remains.

SEC. 192. Permits to disinter or exhume the bodies or remains of deceased person and to transport the same, or to exhume, or to transport, as in the last section provided, may be granted in the discretion of the Health Officer, and under such restrictions and conditions only as he, in his judgment, may affix, so as in the best possible manner to protect the public health. The Health Officer shall prepare a book of blank permits in proper form, and consecutively numbered, containing stubs on which, as well as in the per-

mit, shall be entered a record of the transaction, giving the name, age, sex, nativity, date of death, destination of remains sought to be removed, and upon granting each permit shall be required to be paid to him the sum of ten dollars therefor, for the use and benefit of the General Fund of such city and county.

SEC. 193. Any person or persons who shall disinter, exhume, or remove, or cause to be disinterred, exhumed, or removed from a grave, vault, or other receptacle, or burial place, the remains of a deceased person, without a permit therefor, shall be guilty of a misdemeanor, and be punished by fine not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the County Jail for not less than thirty days nor more than six months, or by both such fine and imprisonment.

SEC. 194. Any person or persons who shall transport, or cause to be transported, on or through the streets or highways of any such city and county of this State, the body or remains of a deceased person, which has been disinterred or exhumed without a permit therefor, in accordance with this Act, shall be guilty of a misdemeanor, and be punished as provided in the preceding section.

SEC. 195. Nothing in this Act contained shall be taken to apply to the removal of the remains of the deceased person from one place of interment to another place of interment, or cemetery, within this State.

SEC. 196. No person, master, captain, or conductor, in charge of any boat, vessel, or railroad car, or public or private conveyance, shall receive for transportation, or shall transport the body of any person who has died within the limits of such city and county, without said body is accompanied by a permit for such transportation from the Health Officer, which permit shall accompany the body to its destination; and no person, master, captain, or conductor, as aforesaid, shall bring into or transport through any such city and county the dead body or remains of any person, unless it be accompanied with a certificate from some proper authority of the place whence it came, stating name, age, sex, and cause of death, which certificate shall be filed at the Health Office; *provided*, that in no case shall the body of any person who died of contagious disease be brought to such city and county within one year after the day of death.

SEC. 197. Whenever a nuisance shall exist on the property of any non-resident, or any property, the owner or owners of which cannot be found by either Health Inspector, after diligent search, or on the property of any owner or owners upon whom due notice may have been served, and who shall for three days refuse or neglect to abate the same, or any property belonging to such city and county, it shall be the duty of the Board of Health to cause the said nuisance to be at once removed or abated, and to draw upon the General Fund in such sums as may be required for such removal or abatement, not to exceed two hundred dollars; *provided*, that whenever a larger expenditure is found necessary to be made in the removal or suppression of any nuisance, the

Municipal Council of such city and county shall, upon the written application of the Board of Health, by ordinance, appropriate, allow, and order paid out of the General Fund such sum or sums as may be necessary for that purpose; *provided, further,* that in all cases where such expenditure will exceed five hundred dollars, no appropriation shall be made for that purpose unless the City and County Attorney shall first give his opinion, in writing, that such expenditure would be a legal charge against the property affected thereby. And the Auditor shall audit and the Treasurer shall pay all appropriations of money made in pursuance of this section, in the same manner as is now provided by law for auditing and paying demands upon the treasury.

SEC. 198. The Health Officer and the Quarantine Officer must each keep a book open to public inspection, in which must be entered daily all fees collected by them, and they must pay all fees collected to such City and County Treasurer, daily, to the credit of the General Fund.

SEC. 199. The Health Officer must execute an official bond, with two sureties, to be approved by the Board of Health, in the sum of ten thousand dollars; and the Quarantine Officer must execute a like official bond, with two sureties, in the sum of ten thousand dollars; which bonds shall be filed with the Auditor of such city and county.

SEC. 200. Any member of the Board of Health, the Health Officer, and the Quarantine Officer, and the Secretary of the Board of Health, is hereby authorized to administer oaths on business connected with the Health Department.

SEC. 201. Whenever any cause of action arises under any of the provisions of this Act relating to the Health Department, suit may be maintained thereon in the name of the Health or Quarantine Officer, as the case may be, in any Superior Court or Justice's Court of this State.

SEC. 202. Every physician in any such city and county shall report to the Health Officer, in writing, every patient he shall have laboring under Asiatic cholera, variola, diphtheria, scarlatina, or other contagious diseases, immediately thereafter, and report to the same officer every case of death from such disease.

SEC. 203. Every householder, in any such city and county, shall forthwith report, in writing, to the Health Officer, the name of every person boarding, or an inmate of his or her house, whom he or she shall have reason to believe sick of cholera or small-pox, and any deaths occurring at his or her house from such disease.

SEC. 204. There shall be a Board of Park Commissioners of such city and county consisting of three persons, to be appointed by the Governor of this State, who shall hold their office for four years, and who shall receive no compensation for their services. In case of a vacancy, the same shall be filled by the remaining members of the Board for the residue of the term then vacant; and all vacancies occasioned by expiration of terms of office, or neglect, or incapacity, shall be filled by the Governor aforesaid. Each of said Commissioners shall be a freeholder and resident

of such city and county. Said Board shall have full and exclusive control and management of all the parks of such city and county which at the time of the organization of such city and county under this Act were treated and improved as public parks, with the avenues and great highways connected therewith. Two of said Commissioners shall constitute a quorum to do business, but no money shall be expended, or contract entered into authorizing the expenditure of money without the approval of the Mayor and a majority of said Board of Park Commissioners; *provided*, that the members of the present Board of Park Commissioners in any such city and county shall be the Park Commissioners under this Act, until their term of office expires.

SEC. 205. Said Board shall have power to govern, manage, and direct said parks and avenues leading thereto as have heretofore been operated or managed in connection therewith; to lay out, regulate, and improve such parks and avenues; to pass ordinances for the regulation and government of the same; to appoint one general Superintendent, who shall perform the duties of overseer and managing gardener, who shall receive a salary of two thousand four hundred dollars per annum. The City and County Surveyor shall be ex officio Engineer of the works, and shall perform such engineering work as the Commissioners may require of him. Prisoners over the age of twenty-one years sentenced to hard labor in any of the jails, prisons, houses of correction, work-houses, or other penal establishments of such city and county, may be put to work upon the parks. The Commissioners may employ such other laborers as shall be necessary, within the amount allowed by law to be expended on said parks, at wages not to exceed the current wages paid in such city and county for labor. They shall in no year incur any debt or deficit, nor expend any money beyond the amount realized by the tax herein provided for. All persons violating any of the ordinances of the Commissioners regulating the parks shall be deemed guilty of misdemeanor, and punished accordingly.

SEC. 206. The Municipal Council shall have the power to levy and collect, in the mode prescribed by law for the levy and collection of taxes, each year, upon all property in such city and county, the sum of one and one-half cents upon each one hundred dollars valuation of taxable property therein for the purpose of preserving and improving the parks and avenues under control and management of said Commissioners. Said money shall be paid into the treasury, and paid out for said purpose; all claims to be first allowed by said Commissioners and audited by the Auditor. The jurisdiction of the Park Commissioners shall not extend to unimproved parks, nor squares, and places not hitherto treated as parks, unless extended thereto by an ordinance of the Municipal Council. The Commissioners may lease, for terms not to exceed three years, any portion of said grounds not immediately required for improvement, the

proceeds to go to the improvement of the parks and avenues.

SEC. 207. The Park Commissioners shall make semi-annual reports to the Mayor and Municipal Council of all their proceedings, and a detailed statement of all the receipts and expenditures.

SEC. 208. The Municipal Council shall constitute a Board of Equalization for such city and county, and as such shall have the powers conferred by the general laws regulating the assessment and collection of taxes, when not inconsistent with the provisions of this Act.

SEC. 209. There shall be a Board of Education for such city and county, which shall be composed of twelve School Directors, elected as provided in this Act, who shall hold office for two years, and until their successors are elected and qualified. They shall have the same qualifications as to eligibility requisite for members of the Board of Aldermen. Said Board shall organize immediately after the election and qualification of its members, by electing a President from among the Directors elected, and annually thereafter, and shall hold meetings monthly, and at such times as the Board shall determine. A majority of all the members elected shall constitute a quorum to transact business, but a smaller number may adjourn from time to time. The Board may determine the rules of its proceedings. Its sessions shall be public, and its record shall be open to public inspection.

SEC. 210. There shall be elected by the qualified voters of such city and county, at the second general State election after the passage of this Act, and every four years thereafter, a Superintendent of Schools, who shall take office on the first Monday after the first day of January next following his election, and hold office for the term of four years, and until his successor is elected and qualified. He shall perform such duties as is prescribed by law.

SEC. 211. The Board of Education shall have power :

*First*—To establish school districts, and to fix and alter the boundaries thereof.

*Second*—To maintain public schools as organized at the time of the organization of such city and county under this Act, and to consolidate and discontinue the same as the public good may require.

*Third*—To establish high, normal, and experimental schools for the education of teachers.

*Fourth*—To employ and pay, and to dismiss teachers, janitors, School Census Marshals, and such mechanics and laborers, and such other persons as may be necessary to carry into effect the powers and duties of the Board, and, unless otherwise provided by law, to fix, alter, and allow paid their salaries and compensations, and to withhold, for good and sufficient cause, the whole or any part of the salary or wages of any person or persons employed as aforesaid.

*Fifth*—Also to make, and establish, and enforce all necessary and proper rules and regulations for the government and efficiency of the schools, the teachers, and pupils, and for the carrying into effect of the school system; and to

establish, and regulate, and grade the schools, the course of studies and mode of instruction therein; to investigate all charges of misconduct on the part of teachers and other employés of the Board; to administer oaths, and take testimony; to summon and enforce the attendance of and examine witnesses for such purpose, before the Board, or a member or committee thereof. Any person summoned and refusing to attend and testify, shall be deemed guilty of a misdemeanor; and any person testifying falsely shall be guilty of perjury, and, on conviction, punished accordingly.

*Sixth*—To provide for the School Department of such city and county fuel, lights, blankets, blank books, books, printing, and stationery, and such other articles, materials, or supplies as may be necessary and appropriate for use in the schools, or in the office of the Superintendent.

*Seventh*—To build, alter, repair, rent, and provide school houses, and furnish them with proper school furniture, apparatus, and school appliances, and to insure any and all school property, and to use and control such buildings as may be necessary for the uses of the Board and its committees.

*Eighth*—To receive, purchase, lease, and hold in fee, in trust for such city and county, any and all real estate and personal property that may have been or which hereafter may be acquired for the use and benefit of the schools of such city and county.

*Ninth*—To grade, fence, and improve school lots, and in front thereof.

*Tenth*—To sue for any and all lots, lands, and property belonging to or claimed by the School Department of such city and county, and to prosecute and defend all actions at law, or in equity, necessary to recover the full enjoyment and possession of said lots, lands, and property, and to require the services of the City and County Attorney in all such suits and proceedings.

*Eleventh*—To establish regulations for the just and equal disbursement of all moneys belonging to the School Department, or to the Public School Fund, and to make rules and regulations to secure economy and accountability in the expenditure of school money.

*Twelfth*—To discharge all legal incumbrances existing upon any school property; to dispose of and sell such personal property used in the schools as shall no longer be required, and all moneys realized by such sales shall be paid into the city treasury to the credit of the Public School Fund.

*Thirteenth*—To lease, for the benefit of the Public School Fund, for a term not exceeding five years, any unoccupied property of the School Department not required for school purposes; to prohibit any child under six years of age from attending the schools; and generally to do and perform such other acts as may be necessary and proper to carry into force and effect the powers conferred on said Board.

SEC. 212. The President of the Board of Education, the Superintendent, and the Secretary, shall have power to administer oaths or affirmations concerning any demands

upon the treasury, payable out of the Public School Fund, or other matters relating to their official duties or the School Department.

SEC. 213. It shall be the duty of each Director to make quarterly reports to the Board of the condition of the schools in their respective districts.

SEC. 214. It shall be the duty of the Board of Education to furnish all necessary supplies for the public schools. All supplies, books, stationery, fuel, printing, goods, material, building, repairs, merchandise, and every other article and thing supplied to or done for the public schools, or any of them, when the expenditure to be incurred is likely to exceed two hundred dollars, shall be done by contract, let to the lowest responsible bidder, after advertisement by the Superintendent of Schools; and the contract shall be entered into by the Superintendent with the party to whom the contract is awarded; and the Superintendent shall take care that such contract is carried out in strict accordance with the terms thereof.

SEC. 215. All bids or proposals made under the preceding section shall be delivered to the Superintendent of Schools, and said Board shall, in open session, open, examine, and publicly declare the same, and award the contract to the lowest responsible bidder; *provided*, said Board may reject any and all bids, should they deem it for the public good, and also the bid of any party who may be proved delinquent or unfaithful in any former contract with such city and county or said Board, and cause a republication of the notice for proposals, as above specified. Any person may bid for any one article.

SEC. 216. Any School Director, officer, or other person officially connected with the School Department, or drawing a salary from the Board of Education, who shall, while in office, or so connected, or drawing salary, be interested, either directly or indirectly, in, or who shall gain any benefit or advantage from any contract, payments under which are to be made in whole or in part of the moneys derived from the School Fund, or raised by taxation or otherwise for the support of the public schools, shall be deemed guilty of felony, and, on conviction, punished accordingly; and this provision shall not be construed to relieve such persons from any other penalty, but shall be deemed cumulative to and with other penalties and disabilities as to such acts and offenses.

SEC. 217. The Board shall make and transmit, between the fifteenth day of January and the first day of February of each year, to the State Superintendent of Public Instruction, and to the Mayor and Municipal Council of such city and county, a report, in writing, stating the whole number of public schools within the jurisdiction, the length of time they have been kept open, the number of pupils taught in each school, the whole amount of money drawn from the treasury by the department during the year, distinguishing the amounts drawn from the General Fund of the State from all other, and from what sources, and the manner and purpose in which such money has been expended, with particulars, and

such other information as may be required from them by the State Superintendent, the Municipal Council, or the Mayor.

SEC. 218. The Board shall provide evening schools, to be held in the public school houses, for the benefit of those unable to attend the day schools. They shall make and enforce regulations requiring the teachers to keep records of the names, ages, and residences of all pupils, and the names and residences of their parents, and the aggregate attendance of each pupil during the year, and to verify and report the same on the thirty-first day of December to the Board; and such other rules and regulations for the purpose of ascertaining the attendance and efficiency of the department and progress of education.

SEC. 219. The Superintendent of Schools shall be ex officio a member of the Board of Education, without the right to vote.

SEC. 220. Said Superintendent shall appoint a Clerk, subject to the approval of the Board of Education, who shall act as Secretary of said Board. His salary shall be two hundred dollars a month. Said Clerk may be removed at the pleasure of the Superintendent, and shall perform such duties as shall be required of him by the Board or the Superintendent.

SEC. 221. The Superintendent shall report to the Board annually, on or before the first day of August, and at such other time as the Board may require, all matters pertaining to the expenditures, income, condition, and progress of the public schools of such city and county during the preceding fiscal year, with such recommendations as he may deem proper. He shall observe, and cause to be observed, such general rules for the regulation, government, and instruction of the schools, not inconsistent with the laws of the State, as may be established by the Board. He shall attend the sessions of the Board, and inform himself at each session of the condition of the schools, school houses, school funds, and other matters connected therewith, and to recommend such measures as he may deem necessary for the advancement of education in such city and county. He shall acquaint himself with all the laws, rules, and regulations governing the public schools in such city and county, and the judicial decisions thereon, and give advice on subjects connected with the public schools gratuitously to officers, teachers, pupils, and their parents and guardians.

SEC. 222. The Superintendent of Schools shall visit and examine the schools, and see that they are efficiently conducted, and that the laws and regulations of the Board are enforced in all things, and that no religious or sectarian books or teachings are allowed in the schools, and to report monthly to the Board. He shall also report to the State Superintendent at such times as such officer shall require.

SEC. 223. Any vacancy in the office of School Director shall be filled for the remainder of the term by a person to be appointed by the Board of Aldermen.

SEC. 224. In case of a vacancy in the office of Superintend-

ent, the Board of Aldermen may appoint a person to fill the vacancy until the next regular election, when the office shall be filled by the people.

SEC. 225. The School Fund of such city and county shall consist of all moneys received from the State School Fund; of all moneys arising from taxes which shall be levied annually by the Municipal Council of such city and county for school purposes; of all moneys arising from sale, rent, or exchange of any school property, and of such other moneys as may, from any source whatever, be paid into said School Fund. Said fund shall be kept in the city and county treasury, separate and distinct from all other moneys, and shall only be used for school purposes under the provisions of this Act. No fees or commissions shall be allowed or paid for assessing, collecting, keeping, or disbursing any school moneys; and if, at the end of any fiscal year, any surplus remains in the School Fund, such surplus money shall be carried forward to the School Fund of the next fiscal year, and shall not be, for any purpose whatever, diverted or withdrawn from said fund, except under the provisions of this Act.

SEC. 226. The said School Fund shall be used and applied by said Board of Education for the following purposes, to wit:

*First*—For the payment of the salaries or wages of teachers, janitors, School Census Marshals, and other persons who may be employed by said Board.

*Second*—For the erection, alteration, repair, rent, and furnishing of school houses.

*Third*—For the expenses of high, normal, and experimental schools.

*Fourth*—For the purchase money or rent of any real or personal property purchased or hired by the Board.

*Fifth*—For the insurance of all school property.

*Seventh*—For the discharge of all legal incumbrances now or hereafter existing on any school property.

*Eighth*—For lighting school rooms, and the office and rooms of the Superintendent and the Board of Education.

*Ninth*—For supplying the schools with fuel, water, apparatus, blanks, blank books, and necessary school appliances, together with books for indigent children.

*Tenth*—For supplying books, printing, and stationery, for the use of the Superintendent and Board of Education, and for the incidental expenses of the Board and department.

*Eleventh*—In grading, fencing, improving school lots.

SEC. 227. All claims payable out of the School Fund (excepting the coupons for interest on school bonds), shall be filed with the Secretary of the Board, and after they shall have been approved by a majority of all the members elect of the Board, upon a call of "yeas" and "nays" (which shall be recorded), they shall be signed by the President of the Board, and the Superintendent of the Public Schools, and be sent to the City and County Auditor. Every demand shall have indorsed upon it a certificate of its approval by the Board, showing the date thereof, and the law authorizing

it by title, date, and section. All demands for teachers' salaries shall be payable monthly.

SEC. 228. Demands on the School Fund may be audited and approved in the usual manner, although there shall not, at the time, be money in the treasury for the payment of the same; *provided*, that no demand on said fund shall be paid out of or become a charge against the School Fund of any subsequent fiscal year; *and further provided*, that the entire expenditures of the said school department, for all purposes, shall not, in any fiscal year, exceed the revenues thereof for the same year.

SEC. 229. The City and County Auditor shall state, by indorsement upon any claim or demand audited on the School Fund, the particular money or fund out of which the same is payable, and that it is payable from no other source.

SEC. 230. Audited bills for the current fiscal year for wages or salaries of the teachers in the public schools shall be receivable for school taxes due upon real estate.

SEC. 231. All lawful demands authorized by this Act for school purposes shall be audited and approved in the usual manner, and the Auditor and Treasurer of such city and county are respectively authorized to audit and pay the same, when so ordered paid and approved by the said Board; *provided*, that the said Board shall not have the power to contract any debt or liability, in any form whatsoever, against such city and county, in contravention of this Act; *and provided further*, that the allowance or approval by the Board of demands not authorized by this Act shall be no warrant or authority to the Auditor or Treasurer to audit or pay the same.

SEC. 232. It shall be the duty of the Board of Education of such city and county, on or before the second Monday of September of each year, to report to the Municipal Council an estimate of the amount of money which will be required during the year for the purpose of meeting the current annual expenses of public instruction in such city and county, specifying the amount required for supplies furnished pupils, for purchasing and procuring sites, for leasing rooms or erecting buildings, and for furnishing, fitting up, altering, enlarging, and repairing buildings; for the support of schools organized since the last annual apportionment; for salary of teachers, janitors, clerks, and other employés, and other expenditures authorized by law; but the aggregate amount so reported shall not exceed the sum of thirty-five dollars for each pupil who shall have actually attended and been taught in the preceding year in the schools entitled to participate in the apportionments. The number of pupils who shall be considered as having attended the schools during any one year, shall be ascertained by adding together the number of days' attendance of all the pupils in the common schools during the year, and dividing the same by the number of school days in the year. Said Municipal Council is authorized and empowered to levy and cause to be collected, at the time and in the manner of levying State and other city and county taxes, the amount of tax, not to exceed

thirty-five dollars per pupil, determined and reported by the Board of Education. The amount so levied and collected shall not include the amount received annually from poll taxes.

SEC. 233. No school shall receive any portion of the school moneys in which the religious doctrines or tenets of any particular Christian or other religious sect are taught, inculcated, or practiced, or in which any book or books, containing compositions favorable or prejudicial to the particular doctrines or tenets of any particular Christian or other religious sect, is used; nor shall any such books or teachings be permitted in the common schools.

SEC. 234. No member of the Board of Education shall ever become the disbursing agent of such Board, or handle or pay out any of its money under or upon any pretense whatever. Any violation of this provision shall be a misdemeanor, and shall subject the offender, besides the punishment, to removal from office. Any member or officer of the Board of Education who shall, while in office, accept any donation or gratuity in money, or of any valuable thing, either directly or indirectly, from any teacher, or candidate, or applicant for a position as teacher, upon any pretense whatever, shall be deemed guilty of a misdemeanor in office, and shall be ousted by the Board, or by any Court of competent jurisdiction, from his seat, on proof thereof. Any member or officer of the Board of Education who shall accept any money, or valuable thing, or the promise thereof, with an agreement or understanding, express or implied, that any person shall, in consideration thereof, get the vote or influence of such member or officer for a situation as a teacher or employé of any kind in the school department, shall be deemed guilty of a felony, and, on conviction, shall be punished accordingly.

SEC. 235. All the streets, lanes, alleys, places, or courts, as laid down on the official map of such city and county, and all other streets, lanes, alleys, places, or courts, now dedicated or open to public use, are hereby declared to be open public streets, lanes, alleys, places, or courts, for the purpose of this Act; and the Municipal Council is invested with jurisdiction to order any of the work mentioned in section two hundred and thirty-nine of this Act to be done on any of said streets, lanes, alleys, places, or courts, when the grade and width of said streets, lanes, alleys, places, or courts have been officially established; and for the purposes of this Act the grade of all intermediate or intersecting streets, lanes, alleys, places, or courts in any one block shall conform to the grades as established of the crossings of the main streets.

SEC. 236. The Municipal Council is hereby authorized and empowered to order the whole or any portion of the said streets, lanes, alleys, places, or courts graded or regraded to the official grade, planked or replanked, paved or repaved, macadamized or remacadamized, piled or repiled, capped or recapped, and to order sidewalks, sewers, cesspools, manholes, culverts, curbing, and crosswalks to be constructed, and to order any streets and sewers cleaned, and to order any

other work to be done which shall be necessary to make and complete the whole or any portion of said streets, lanes, alleys, places, or courts, and they may order any of the said work to be improved; and when any street, or portion of a street, has been or shall hereafter be constructed to the satisfaction of the Municipal Council and the Superintendent of Streets, and shall have a brick sewer, or cement or iron stone pipe constructed therein, under such regulations as said Municipal Council shall adopt, the same shall be accepted by it, and thereafter shall be kept open and improved by such city and county, the expense thereof, together with all work done in front of city and county property, to be paid out of the Street Department Fund, or other proper fund; *provided*, that the Municipal Council shall not accept of any portion of the street less than the entire width of the roadway (including the curbing and one block in length, or one entire crossing); and *provided further*, that it may, partially or conditionally, accept any street, or portion of a street, without a sewer or pipe therein as above stated, if a sewer or pipe therein shall be deemed by them unnecessary; but the lots of land previously assessable for the cost of construction of a sewer or pipe shall still remain and be assessable for such cost, and for the cost of repair and restoration of the street damaged in the said construction, when thereafter a sewer or pipe shall be deemed necessary, the same as if no partial or conditional acceptance had ever been had. The said Superintendent of Streets shall keep in his office a register of all accepted streets, the same to be indexed so that reference may be easily had thereto.

SEC. 237. The Municipal Council may order any work authorized by this Act, the cost and expense of which is made chargeable, or may be assessed upon private property by special assessment, to be done, after notice of its intention so to do in the form of a resolution describing the work, and signed by the Clerks of both branches of the Municipal Council, has been published for the period of five days in the paper doing the printing for such city and county, and also in two daily newspapers, one of which newspapers shall be published as a morning edition and one as an evening edition, printed and published in such city and county, for five days, Sundays and non-judicial days excepted; *provided*, that no such notice shall be given or order made for the grading of any street unless the majority of the frontage of the lots and land fronting on the work proposed to be done, and described in said resolution, or which is to be made liable for such grading, except public property, shall have been represented by the owners thereof, or by their agents, in a petition to the said Municipal Council, stating that they are the owners and in possession or agents of the lots named in the petition, and also requesting that such improvements or street work shall be done. All owners of lands, or lots, or portions of lots, who may feel aggrieved or have objection to the ordering of the work described in said notice, or who may have objection to any of the subsequent proceedings

of the Municipal Council in relation to the work mentioned in such notices of intention, or may have any objections to any of the acts of the Superintendent of Streets, and the City and County Surveyor of such city and county, in the discharge of any of the obligations or duties imposed upon him or them by virtue of their offices, shall file with the Clerk of either branch of the Municipal Council a petition or remonstrance, wherein they shall set forth in what respect they feel aggrieved, or the acts or proceedings to which they object, which petition or remonstrance shall be passed upon by the Municipal Council, and its decisions thereon shall be final and conclusive; but the Municipal Council shall not order the work described in said notices to be done unless all objections and protests that may have been presented and filed as aforesaid shall have been by them disposed of. Should the owners or agents of more than one-half in frontage of the lots and lands fronting on the work proposed to be done, and designated in said notice or resolution, or liable to be assessed for work, file with the Clerk of either branch of the Municipal Council written objections against any grading described in said notice, at any time before the expiration of the publication of said notice of intention, and the publication thereof as hereinbefore provided, then and thereupon the Municipal Council shall be barred from proceeding further for the period of six months, and shall not renew the notice of intention for doing any street work so protested against within six months, unless the owners or agents of a majority of the frontage of the lots and lands fronting on said street work, or liable to be assessed therefor as aforesaid, shall petition anew for the work to be done. At the expiration of any notice of intention the Municipal Council shall be deemed to have acquired jurisdiction to order any work to be done which is authorized by this Act; and it is further provided, that where any public street shall have been graded, or graded and macadamized, or graded and paved, for the distance of one or two blocks upon each side thereof of any one or two blocks or crossing of a street which is not improved, it shall be the duty of the Municipal Council, upon the recommendation of the Superintendent of Streets, to order the notice provided in this section to be given without the petition provided first aforesaid; and if the owners of three-fourths of the frontage of the land and lots fronting on such portions of said streets to be graded or improved shall, within the time prescribed in said notice, file written objections to the improvement of the said street, the Municipal Council shall duly consider said objections before ordering said work; and if it shall decide and declare by an entry in the minutes of both branches thereof that the objections so made are not good, thereupon it shall be deemed to have acquired jurisdiction to order any such street work to be done that is described in said notice; provided further, that when one-half or more of the grading, planking, macadamizing, paving, sidewalking, or sewerage of any one street, lying between two main street crossings has been already performed, the Municipal Council

may order the remainder of such grading, planking, macadamizing, paving, sidewalking, or sewerage to be done, notwithstanding the objections of any or all of the property owners.

SEC. 238. The owners of more than one-half in frontage of lots and lands fronting on any street, lane, alley, place, or court, mentioned in section two hundred and thirty-eight of this Act, or their duly authorized agents, may petition the said Municipal Council to order any of the work mentioned in section two hundred and thirty-nine of this Act to be done; and the said Board may order the work mentioned in said petition to be done, after notice of their intention so to do has been published as provided in section two hundred and forty of this Act. No order or permission shall be given to grade, or pile and cap, any street, lane, alley, place, or court, in the first instance, or any portion thereof, without extending and completing the same throughout the whole width of said street, lane, alley, place, or court. When any such work has heretofore been done, or when any such work shall hereafter be done, in violation of this section, neither the lots or portions of lots in front of which such work has been or may be done hereafter, nor the owners thereof, shall be exempt from assessments made for the payment of the work afterward done to complete said street, lane, alley, place, or court to its full width, as provided in this Act.

SEC. 239. At the expiration of the publication of such notice the Clerk of either branch of the Municipal Council shall cause to be transmitted to the City and County Surveyor, and to the Superintendent of Streets of such city and county, a copy of the resolution, order, or ordinance authorizing the said street work. The said Surveyor shall thereupon, within fifteen days from the completion of the publication mentioned in the last section, transmit to said Municipal Council a map of the district to be benefited by said street improvement; which map shall show the relative location of each lot to the work proposed to be done, and be signed by said Surveyor. The Superintendent of Streets shall also thereupon, within fifteen days from the completion of said publication, transmit to the Municipal Council an estimate of the cost and expense of said improvement, which said estimate shall contain the items composing the gross sum estimated, and shall be signed by said Superintendent.

SEC. 240. The Municipal Council shall, at the first meeting after the receipt of such map and estimate, or as soon as may be practicable, either adopt, modify, or reject the same, and, after its final action upon said map and estimate, the same shall be transmitted to said Superintendent of Streets, who shall record the same in a book to be kept by him for such purpose; and the said Superintendent shall forthwith prepare plans and specifications for such street work, and the Clerk of either branch of the Municipal Council shall cause to be conspicuously posted in the office of said Superintendent, and also published for five days (non-judicial days excepted) in the newspapers hereinbefore mentioned, a notice inviting sealed proposals to contract for the work

contemplated to be performed; such work not to be performed until after the moneys sufficient for the payment of the costs and expenses thereof shall have been levied, collected, and paid into the treasury of such city and county, as hereinafter provided; which notice shall substantially contain the plans and specifications above mentioned; and all notices, resolutions, and orders required to be posted or published under the provisions of this Act, shall be posted or published, or both posted and published, as the law may require, by said Clerk, as a matter of course, and without any special direction or authority from said Municipal Council. The said Superintendent shall furnish specifications for the performance of any and all street work ordered by the Municipal Council and authorized by this Act, and the time within which said work must be completed after entering into the contract for doing the same. All proposals shall be delivered to the Clerk of either branch of the Municipal Council, and the House of which he is the Clerk shall, in open session, open, examine, and publicly declare the same; and all proposals shall be for a price, payable in gold coin of the United States; *provided*, said Municipal Council may reject any and all proposals, should they deem it for the public good, and also may reject the proposals of any party who may be proved delinquent or unfaithful with any former contract with such city and county; and if all proposals shall be rejected, the Municipal Council shall direct the Clerk of either House thereof to again post said notice, and publish the same as in the first instance. All proposals shall be accompanied with a bond to such city and county, to be approved by the Clerk of either House of said Municipal Council, in the sum of one thousand dollars, and in such additional amount as may be fixed by said Superintendent of Streets, with two good and sufficient sureties, who must be freeholders of such city and county (said sureties to justify in double the amount), conditioned that the party making such proposal shall, or will, within ten days after notice from said Superintendent that the moneys for the cost and expenses of such work have been paid into the treasury, enter into a contract with such city and county, in pursuance of such proposal, and to commence said work within five days after the execution of such contract, and complete the same within the time mentioned in the said plans and specifications, or either of them, or within any extended time; *it is further provided*, that all persons proposing, owners included, who shall fail to enter into any contract as herein provided, or to complete the contracts entered into, are hereby prohibited from proposing a second time for the same work; and in case of owners, they are hereby prohibited from electing to take the same work a second time, and from entering into any contract concerning the same. At any time within five days after such money has been paid into the treasury, the owners of a majority of the frontage of lots and lands liable to be assessed for said work, or their agents, and who shall make oath that they are such owners, or the agents of such owners, may elect to do the said work, and to enter

into a written contract to do the whole work at the price for which the same is awarded, upon giving the bond as hereinafter provided; and they shall commence said work within five days after the execution of such contract, and shall prosecute it diligently and continuously, and complete it within the time limited in the contract, or within any extended time; but should the said contractor, or the property owners, fail to prosecute the same diligently or continuously, in the judgment of said Superintendent, or complete it within the time prescribed in the contract, or within the extended time, then it shall be the duty of said Superintendent to report the same to the Municipal Council, who shall immediately order the Clerk of either branch of the Municipal Council to advertise for proposals as in the first instance, and relet the contract in the manner hereinbefore provided; *and it is further provided*, that all contractors for street work shall, at the time of entering into said contract, execute a bond, payable to such city and county, with two or more sureties, in the sum of not less than one thousand dollars, and in such additional amount as may be fixed by said Superintendent, conditioned for the faithful performance of said contract; and said sureties shall justify in double the amount of the penalty fixed in said bond; such sureties to justify before said Superintendent or his deputy, and the qualifications and responsibility of such sureties shall be the same as prescribed for sureties on the official bonds of the officers of such city and county; *and it is further provided*, that in case of the non-fulfillment by the obligor in either of the bonds mentioned in this section, of the conditions thereof, it shall be the duty of the City and County Attorney to sue for and collect the sum in said bond mentioned, in any Court of competent jurisdiction, and pay the same into the city and county treasury, to the credit of the proper fund.

SEC. 241. After the proposal shall have been received and considered by the Municipal Council, the Superintendent of Streets shall make an assessment in proportion to the benefit upon all the land in the district shown upon said map. Said assessment shall show the work proposed to be done, the estimated cost thereof, the rate per front foot assessed against each lot within the assessment district, the amount of each assessment, the name of the owner of each lot, or portion of lot, if known, to the Superintendent, and if such owner be unknown, the word "unknown" shall be written opposite the number of the lot. (But an assessment made to a person not the owner, shall not render such assessment illegal), and the amount assessed thereon, the number of each lot or portion of lot assessed, and shall have attached thereto a diagram showing the assessment district, and the relative location of each lot assessed to the work proposed to be done, each lot being numbered in said assessment and diagram; and when completed shall be signed by said Superintendent, and transmitted to the Board of Aldermen.

SEC. 242. At the first meeting of the Board of Aldermen, after the receipt by it of the assessment made by said Superintendent, as soon thereafter as may be practicable, it shall

cause notice of the time and place of the hearing of all objections to said assessment to be published for at least five days (Sundays and non-judicial days excepted), prior to the time of such hearing, in two daily newspapers, one published as a morning edition, and one as an evening edition, in such city and county. All objections shall be heard in open session of said Board of Aldermen. At said hearing said Board of Aldermen may alter, modify, or confirm said assessment, as it shall deem proper; and said Superintendent shall thereupon record said assessment and diagram in a book to be kept by him for that purpose. When so recorded, the several amounts assessed shall be deemed a tax levied upon the lands described in said assessment and diagram, upon which they are respectively assessed, and shall be a lien upon such parcels of land. Said Superintendent shall give to each assessment a number by which the fund collected for said work shall be known, and shall immediately after the record of said assessment, as hereinbefore provided, deliver the said assessment and diagram to the Tax Collector of such city and county, who shall thereupon cause to be published for ten successive days (Sundays and non-judicial days excepted), in two newspapers of general circulation, one of which shall be published as a morning edition, and one as an evening edition, published in such city and county, a notice, containing a description of the proposed improvement, and of the portion of street or streets upon which the same is proposed to be done, that the same is in his hands for collection; that if said assessment is not paid within fifteen days from the date of the last publication of such notice, that the same will be delinquent; that the property assessed, and upon which the assessment remains unpaid, will be sold by said Tax Collector for said assessment, a brief description of the property assessed, the amount assessed thereon, and the time and place of sale, which shall be not less than five nor more than ten days after such delinquency.

SEC. 243. On the day fixed for the sale, said Tax Collector, between the hours of ten A. M. and three P. M., must commence the sale of the property advertised, upon which the assessment remains unpaid, and sell the same at public vendue, in the office of said Tax Collector, to the person who will take the least quantity of the respective parcels of land assessed, and pay the assessment thereon, together with two dollars to said Tax Collector for the duplicate certificate of sale. If the purchaser does not forthwith pay the amounts of the assessment and costs by him bid, the said Tax Collector shall immediately proceed to sell such parcel or parcels again, in the same manner, for the amount of said assessment and costs.

SEC. 244. After receiving the amount of the assessment and costs, said Tax Collector must make out in duplicate a certificate, dated on the day of the sale, showing the name of the person assessed, when known, a brief description of the property sold, the street improvement for which the assessment was levied, the number of the assessment, that it was sold for an assessment, the amount thereof, that the same is

subject to redemption at any time within one year after sale, and specifying the date when the purchaser will be entitled to a deed; and upon payment to said Tax Collector of the fee for recording the same, said Tax Collector shall deliver one of such duplicates to the purchaser, and the same day file the other in the office of the Recorder of such city and county, who shall record the same.

SEC. 245. Upon filing the said duplicate in the office of said Recorder, the lien aforesaid is vested in the purchaser, and is only divested by payment to him, or to the Treasurer of such city and county, for his use, of the purchase money and costs, and two per cent. per month and fraction of a month up to date of redemption thereon. A redemption of the property sold may be made by the owner, or any party in interest, within twelve months from the date of purchase.

SEC. 246. If property is not redeemed within twelve months from the date of such sale, the Tax Collector must make to the purchaser, or his assignee, a deed, reciting substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The matters recited in the certificate of sale must be recited in the deed, and such deed, duly acknowledged, shall be *prima facie* evidence that:

1. The property was assessed as required by law.
2. That the assessment was not paid.
3. That the property was sold at the proper time and place, and by the proper officer.
4. That the person who executed the deed was the proper officer therefor.
5. That the title to the property therein described is vested in the purchaser, his heirs, or assigns, free from all incumbrances, except taxes, for purposes of revenue.

SEC. 247. Said Tax Collector shall daily pay into the treasury of such city and county, to the credit of the proper Street Improvement Fund, all moneys collected by him on account of such fund, and shall, upon the receipt of any assessment, mark the same paid upon the assessment roll, and shall receipt to the person paying the same therefor, which receipt shall show the number of the Street Improvement Fund, the work done, the number of the lot upon which the assessment is paid, and the amount thereof.

SEC. 248. When the full amount of such assessment has been collected by said Tax Collector, the said Collector shall certify to the Superintendent of Streets that the same has been collected and paid into the treasury of such city and county. Upon the receipt of such certificate from the Tax Collector, the said Superintendent shall forthwith notify the person whose proposal shall have been accepted by the Municipal Council, as aforesaid, of the payment of such money into the treasury, and that such city and county is ready to enter into a contract with such person for such work, in pursuance of said proposal; and said Superintendent shall hold himself in readiness to execute said contract on behalf of such city and county. The Board of Aldermen may extend the time of performance of the contract, as fixed

by the contract or specifications, upon the recommendation of said Superintendent; but the time of the performance shall in no event be in any manner extended beyond sixty days after the time fixed in such specifications or contract for the completion of said work.

SEC. 249. Whenever any contract shall have been completed to the satisfaction and acceptance of the Superintendent of Streets, he shall deliver to the contractor a certificate to that effect, and shall also notify said Board of Aldermen that said work and improvement, and the contract therefor, have been completed to his satisfaction and acceptance, and that he has given to said contractor his certificate to that effect. Thereupon said Board of Aldermen shall direct the Clerk of said Board to give notice by publication for five days, in a newspaper published and circulated in such city and county, that said work and improvement, and the contract therefor, have been completed to the satisfaction and acceptance of the Superintendent of Streets of such city and county.

SEC. 250. Any person owning property which has been assessed to pay the cost and expenses of such work and improvement, feeling aggrieved at the manner in which such work and improvement shall have been done, or feeling aggrieved at any act or determination of said Superintendent of Streets, in relation to said work and improvement, subsequent to the date of the execution of the contract therefor, shall, within five days from the first publication of said notice, appeal to said Board of Aldermen by briefly stating their objections in writing, and by filing the same with the Clerk of said Board. At the meeting of the Board next ensuing after the expiration of said five days, allowed above for filing said objections, the said Board, if no objections have been filed, shall, by resolution, ratify and confirm all said acts of said Superintendent of Streets, and shall accept such work and improvement. But if any such objections last aforesaid shall have been filed within said five days, then said Board shall fix the time for hearing such objections, and shall direct the Clerk of said Board to notify all persons desirous of being heard upon said objections of the time and place when and where said Board will hear all parties desiring to be heard upon the same. Said notice shall be in writing, and shall be given by posting the same in three of the most conspicuous public places in such city and county, and published five days in two daily newspapers (one morning and one evening edition), at least five days before the time set for said hearing. At the time and place fixed for said hearing of said objections, said Board shall proceed to hear all parties present and desiring to be heard upon the matters specified in such objections. And whenever said Board shall have determined, by personal inspection or otherwise, that said work and improvement objected to have been completed in all respects according to the contract therefor, they shall, by resolution, accept said work and improvement, and ratify and confirm all said acts of said Superintendent of Streets in relation thereto.

SEC. 251. If, upon such hearing, said Board of Aldermen

shall determine by personal inspection or otherwise that said work and improvement have not been performed according to the contract therefor, then they shall notify the said Superintendent of Streets to that effect, specifying in said notice to him the particulars in which said contract has not been performed. And said Superintendent of Streets shall thereupon at once cause said contractor to complete said work and improvement under the contract therefor in those particulars specified by said Board in said notice to said Superintendent of Streets. Whenever said Board shall ascertain that said work and improvement have been completed in all respects according to the terms of the contract therefor, they shall, by resolution, accept such work and improvement. All acts and determinations of said Board of Aldermen upon appeals, under the provisions of this and the next preceding section, shall be final and conclusive upon all persons entitled to an appeal thereunder.

SEC. 252. Whenever any work or improvement shall have been so completed upon any street, lane, alley, court, or place in such city and county for the payment of costs and expenses, of which an assessment shall have been levied and collected under the provisions of this Act, the said Board of Aldermen shall, by resolution, direct the Treasurer to pay out of the appropriate fund, at the expiration of fifteen days from the passage of such resolution, to the contractor who shall have so completed said work and improvement, the amount to which he is entitled under the terms of his contract, *provided, however,* that such payment by the Treasurer shall be made subject to the following provisions, to wit: That any person or persons who have performed labor upon or furnished materials for the construction of said work or improvement, may file within said fifteen days, with the Treasurer, any written claim or claims he or they may have on account of such labor performed or materials furnished; and, at the expiration of said fifteen days, said Treasurer shall pay to said contractor the amount specified in said last named resolution, less the aggregate amount of all such claims, if any, theretofore filed in accordance with the provisions of this section. Should any money be retained by said Treasurer on account of such claim or claims, he shall pay over the amount of each claim only upon the order therefor of said contractor, indorsed by the claimant entitled thereto, or upon the order therefor of any Court of competent jurisdiction.

SEC. 253. And when all moneys required to be paid by the said Treasurer under the last preceding section shall have been by him paid, as required in said section, if there is any money remaining in the fund out of which said payments shall have been made as aforesaid, it shall be the duty of said Treasurer immediately to report the amount of said remaining moneys to said Board of Aldermen. Thereupon it shall be the duty of said Board to empower and direct said Treasurer to distribute and repay such remaining moneys, and in the proportion of the amounts of the original assessments, to the persons by or for whom said original

assessments were paid, or to their legal representatives. And it shall be the duty of said Treasurer, in each instance of such repayment, to require, receive, and file away a receipt for said proportionate amount from said persons or their legal representatives. And in no case shall a contractor who has failed to fulfill the terms and conditions of his contract be entitled to receive any portion of the contract price therefor, and he shall be deemed to have forfeited all right to recover or receive any compensation whatever under said contract.

SEC. 254. No contract to do any work upon any accepted streets other than cleaning streets and sewers shall be let, but such work shall be done under the direction of the Superintendent of Streets, by laborers employed by such city and county through said Superintendent, at such wages as may be from time to time fixed by the Municipal Council. All contracts for materials necessary to be used for work on accepted streets must be given by the Municipal Council to the lowest bidder offering adequate security, after due public notice, for not less than five days, in at least two newspapers published in such city and county.

SEC. 255. In case of urgent necessity, the Superintendent of Streets may, and it shall be his duty to repair any of the unaccepted public streets, sewers, or crossings cornering thereon; and the expense of the same shall be paid out of the Street Department Fund, in the same manner as provided for the improvement of accepted streets; and all such repairs shall be made in uniformity with the work to be repaired, but such repairs between two main streets shall not exceed in cost the sum of two hundred dollars, and the repairs of any crossings shall not exceed in cost the sum of one hundred dollars; *provided*, the sums so expended shall not exceed the sum of two thousand dollars in any one month. Such work, and the material therefor, shall be performed and provided in the same manner as provided in the foregoing section concerning labor and material for accepted streets.

SEC. 256. No recourse shall be had against such city and county for damage to person or property suffered or sustained by or by reason of the defective condition of any street or public highway of such city and county, whether originally existing or occasioned by construction, excavation, or embankment, or want of repair of said street or public highway; and whether such damage be occasioned by accident on said street or public highway, or by falling from or upon the same; but if any person while carefully using any street or public highway of such city and county, graded, or in course of being graded, or carefully using any other street or public highway leading into or crossing the same, be injured, killed, lost, or destroyed; or any horses, animals, or other property be lost, injured, or destroyed, through any defect in said street or public highway, graded, or in course of being graded, as aforesaid, or by reason of any excavation or embankment in or of the same, or by falling from or upon such embankment or excavation, then the person or persons

upon whom the law may impose the duty either to repair such defect or to guard the public from the excavation, embankment, or grading aforesaid, and also the officer or officers through whose official neglect such defect remained unrepaired, or said excavation or embankment remained unguarded as aforesaid, shall be jointly and severally liable to the person or persons injured for the damages sustained.

SEC. 257. The Superintendent of Streets may require, at his option, by notice in writing, to be delivered to them personally or left on the premises, the owners, tenants, or occupants of lots or portions of lots liable to be assessed for work done under the provisions of this Act, to improve forthwith any of the work mentioned in section two hundred and thirty-six of this Act in front of the property of which he is the owner, tenant, or occupant, to the center of the street or otherwise, as the case may require, or to remove all filth, sand, earth, or dirt from the street in front of his premises; and by a like notice, to be served personally upon the President or any officer of a railroad corporation or company, or to be left at the office of said corporation or company, to require such corporation or company to improve forthwith any work mentioned in this Act which said corporation or company are required by law to do and perform; said notice to specify what improvement is required, or work is to be done. After the expiration of five days, if such notice shall not have been complied with, such proceedings shall be taken by the proper authorities to cause the moneys necessary for the doing of such work to be paid into the treasury, as is hereinbefore provided in reference to work and improvements upon unaccepted streets, and to be paid for in the same manner.

SEC. 258. Notices in writing, which are required to be given by the Superintendent of Streets, under the provisions of this Act, may be served by any police officer, or by any male citizen over the age of twenty-one years, and the fact of such service shall be verified by the oath of the person making it, taken before the Superintendent (who is hereby authorized to administer oaths), or any other person authorized to administer oaths. The Superintendent of Streets shall keep a record of the fact of giving such notices and proof of service, and shall keep the original proof thereof.

SEC. 259. *First*—On or before the fourth Monday of July, annually, the Municipal Council of such city and county shall levy the amount of taxes for State, city, and county purposes, required by law to be levied upon all property not exempt from taxation; said amount to be such as the said Council may deem sufficient to provide for the payment of all demands upon the treasury authorized by law to be paid out of the same; *provided*, that such taxation, exclusive of the State tax and any and all special taxes, now or which hereafter may be authorized by law, shall not in the aggregate exceed the rate of one dollar upon each one hundred dollars valuation of the property assessed; *provided further*, that the said Municipal Council shall, in making the said levy of taxes, apportion and divide the taxes so levied, and to be collected

and applied to the several specific funds known as the Corporation Debt Fund, General Fund, School Fund, Street Light Fund, Street Department Fund, or other fund provided for by law, or by the said Council, according to the estimate of said Council of the necessities of the said funds, except that the rate for the School Fund shall not exceed thirty-five dollars for each pupil who shall have attended and been taught the preceding year; *and provided further*, that the said Municipal Council shall authorize the disbursement of said money for the purposes hereinafter mentioned; and at the close of each fiscal year the said Council shall direct the Treasurer to transfer all surplus moneys of all funds, excepting the School Fund, after liquidating or providing for all outstanding demands upon said funds, to the General Fund; but no money shall be transferred from either of the said funds to another, nor used in paying any demands upon such other fund until all the indebtedness arising in any fiscal year, and payable out of said funds so raised for said fiscal year, shall have been paid and discharged.

*Second*—The Corporation Debt Fund shall be applied to and used for the payment of the interest, and to extinguish or provide for the extinguishment of the lawfully contracted funded debts of such city and county, in accordance with laws in force at the time of the organization of such city and county under this Act.

*Third*—The General Fund shall be applied and used for the payment of all sums authorized by law to be paid out of the General Fund, and not otherwise provided for in this Act.

*Fourth*—The School Fund shall be applied and used for the payment of all sums authorized by law to be paid out of the School Fund.

*Fifth*—The Street Light Fund shall be applied and used in payment for lighting the streets of such city and county, and for the repair of lamps and posts, in pursuance of any existing or future legal contract of such city and county.

*Sixth*—The Street Department Fund shall be applied and used for repairing and improving all streets, lanes, and the crossings thereof, which shall have been or hereafter may be accepted, so as to become a charge upon such city and county; for cleaning streets, lanes, crossings, and sewers; and for the expense of improvements of streets in front of school lots; for all street work in front of or assessable upon property belonging to such city and county; for all street work on the water-front of such city and county, not by law assessable upon private property; for all work authorized by the said Council, upon the recommendation of the Superintendent of Streets, as immediately essential for the safety of life, limb, or property, or necessary for public health, or which cannot be by law assessed upon private property, and for such other objects relating to streets and highways as shall be directed by law or said Council to be paid therefrom. All moneys received from licenses on vehicles, from the income from street railroads, from fines and penalties for violation of any

law or ordinance regulating vehicles on the public streets, shall be paid into the Street Department Fund.

SEC. 260. No payment can be made from the treasury or out of the public funds of such city and county, unless the same be specifically authorized by law, nor unless the demand which is paid be duly audited, as in this Act provided, and that must appear upon the face of it. No demand upon the treasury shall be allowed by the Auditor in favor of any person, officer, company, or corporation in any manner indebted thereto without first deducting the amount of such indebtedness, nor to any person or officer having the collection, custody, or disbursement of public funds, unless his account has been duly presented, passed, approved, and allowed, as required by law; nor in favor of any officer who shall have neglected to make his official returns or his reports, in writing, in the manner and at the time required by law or by the regulations established by the Municipal Council; nor to any officer who shall have neglected or refused to comply with any of the provisions of this or any other Act of the Legislature regulating the duties of such officer, on being required in writing to comply therewith by the President of the Board of Aldermen, or any member of the Finance Committee of the Municipal Council; nor in favor of any officer for the time he shall have absented himself, without lawful cause, from the duties of his office during the office hours prescribed in this Act, and the Auditor may examine any officer receiving a salary from the treasury, on oath, touching such absence.

SEC. 261. The term "audited," as used in this Act, with reference to demands upon the treasury, is to be understood their having been presented to and passed upon by every officer and Board of officers, and finally allowed as required by law; and this must appear upon the face of the paper representing the demand, or else it is not audited.

SEC. 262. Every demand upon the treasury, except the salary of the Auditor, and including the salary of the Treasurer, must, before it can be paid, be presented to the Auditor for such city and county, to be allowed, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the treasury of such city and county is authorized by law, and out of what fund. If he allow it, he shall indorse upon it the word "Allowed," with the name of the fund out of which it is payable, with the date of such allowance, and sign his name thereto; but the allowance or approval of the Auditor, or the Municipal Council, or either branch thereof, or any Board, committee, or officer, of any demand which, upon the face of it, appears not to have been expressly made by law payable out of the treasury or fund to be charged therewith, shall afford no warrant to the Treasurer or other disbursing officer for paying the same. No demand can be approved, allowed, audited, or paid, unless it specify each several item, date, and value composing it, and refer to the law, by title, date, and section, authorizing the same.

SEC. 263. The demand of the Auditor for his monthly

salary shall be audited and allowed by the President of the Board of Aldermen. All other monthly demands on account of salaries, allowances, or compensations fixed by law or this Act, and made payable out of the treasury of such city and county, may be allowed by the Auditor without any approval. All demands payable out of the School Fund must, before they can be allowed by the Auditor, or paid, be previously approved by the Board of Education, or by the President thereof, and Superintendent of Schools, acting under express authorization of said Board. Demands for teachers' wages, or other expenses appertaining to any school, cannot be approved, allowed, or audited to an amount exceeding the share of school money which such school will be entitled to have apportioned to it during the current fiscal year. All other lawful demands payable out of the treasury, or any public funds of such city and county, and not hereinbefore in this section specified, must, before they can be allowed by the Auditor in any manner, or recognized, or paid, be first approved by the Municipal Council, except, if the demand be under two hundred dollars, by the Mayor and two members of the Board of Aldermen appointed by the said Board for that purpose, with power to act under and subject to its instructions and regulations during recess of the said Board. The Auditor must number and keep a record of all demands on the treasury allowed by him, showing the number, date, amount, and name of the original and present holder, on what account allowed, out of what fund payable, and, if previously approved, by what officer, officers, or Board it has been so approved; and it shall be deemed a misdemeanor in office for the Auditor to deliver any demand with his allowance thereon until this requisite shall have been complied with.

SEC. 264. The Mayor, Mayor's Clerk, Auditor, Auditor's Clerk, Chief of Police, Police Commissioners, President of the Board of Education, each member of the Municipal Council, and every other officer required by law or ordinance to allow, audit, or certify demands upon the treasury, or to perform any other official act or function, shall have power to administer oaths and affirmations, and take and hear testimony concerning any matter or thing concerning any demand upon the treasury, or otherwise relating to their official duties. Every officer who shall approve, allow, or pay any demand on the treasury not authorized by law, or by a valid ordinance of the Municipal Council, passed in accordance with the same, or in case it is the act of a Board, who shall, as a member thereof, vote for the same, shall be liable to the city and county individually, and on his official bond, for the amount of the demand so illegally approved, allowed, or paid. Copies or extracts from said books, duly certified, shall be given by the officer having the same in custody, to any citizen demanding the same and paying fifteen cents per folio of one hundred words for such copies or extracts.

SEC. 265. Every lawful demand upon the treasury, duly audited as in this Act required, shall in all cases be paid

on presentation, and canceled, and the proper entry thereof be made, if there be sufficient money in the treasury belonging to the fund out of which it is payable; but if there be not sufficient money belonging to said fund to pay such demand, then it shall be registered in a book to be kept by the Treasurer for that purpose, showing its number, when presented, date, amount, name of the original holder, and on what account allowed, and out of what fund payable, and being so registered, shall be returned to the party presenting it, with an indorsement of the word "Registered," dated and signed by the Treasurer.

SEC. 266. Whenever any audited demand has been presented to the Treasurer and not paid, and it be made known to the President of the Board of Aldermen, he shall proceed immediately to investigate the cause of such non-payment, and if it be ascertained that the demand has been illegally and fraudulently approved or allowed, he shall cause the officer guilty of such illegal and fraudulent approval or allowance to be suspended and proceeded against for misconduct in office. If he ascertains that the demand has been duly audited, and that the Treasurer has funds applicable to the payment thereof, which, without reasonable grounds for doubt as to the legality of such payment, he refuses to apply thereto, he shall proceed against him as a defaulter. If it be ascertained that the demand was not paid for want of funds, then he shall cause the Tax Collector, or other officer or person who ought to have collected or to have paid the money into the treasury, if they have been grossly negligent therein, to be proceeded against according to law and without delay.

SEC. 267. The Treasurer, for all money received into the treasury, and all other officers of such city and county receiving money from the treasury for disbursement, shall give receipt for all moneys by them received, which receipt shall be presented to and countersigned by the Auditor. The Auditor, before countersigning any such receipt, shall number it and make an entry in a book of record, to be kept in his office for that purpose, of the number, date, and amount, by whom and in whose favor given, and on what account. No such receipt shall be valid as evidence in favor of the person or officer receiving it till presented to the Auditor and countersigned as aforesaid; and any person or officer using or offering to use such receipt as evidence in favor of such person or officer, of the payment specified in it, without being first countersigned as above required, shall forfeit to such city and county double the amount of money specified in such receipt.

SEC. 268. If any person feel aggrieved by the decision of the Auditor, or other proper officer or officers of such city and county, except the Board of Education, in the rejection of or refusal to approve or allow any demand upon the treasury presented by such person, he may appeal and have the same passed upon by the Municipal Council, whose decision thereon shall be final; and if the said Council shall approve and allow the demand, it shall afterwards be presented to the

Auditor, and entered in the proper book, in like manner as other demands allowed by him, and an indorsement must be made of its having been so entered before it can be paid; but nothing herein contained shall be construed to bar the party presenting the claim from prosecuting the same in any Court of competent jurisdiction; *provided*, that from the decision of the President of the Board of Education and Superintendent of Schools, refusing or not agreeing to allow any demand payable out of the School Fund, the appeal shall be taken to the Board of Education, whose decision shall be final; but nothing herein contained shall be construed to bar the party presenting the claim from prosecuting the same in any Court of competent jurisdiction.

SEC. 269. In all cases of such appeals to the Municipal Council, or the Board of Education, if, in the opinion of said Council or of said Board, deemed expedient, the opinion of the City and County Attorney shall be required and obtained in writing, read and filed; and, upon such appeal and in all other cases upon the approval or allowance of any demand upon the treasury or School Fund, the vote shall be taken by "yeas" and "nays," and entered upon the records.

SEC. 270. The President of the Board of Aldermen, in conjunction with the Auditor and the Chairman of the House of Delegates of such city and county, shall every month examine the books of the Treasurer and other officers of such city and county having the collection and custody of the public funds, and shall be permitted and it shall be their duty to see and count over all the moneys remaining in the hands of such Treasurer, or other officer, after having previously ascertained the amount which should be remaining in his hands. The Finance Committee shall also, twice a year, viz.: on the first Monday in July and January, make the same examination of books, count said money, and report the result to the Municipal Council. If they ascertain clearly that such Treasurer, or other officer, is a defaulter, they shall forthwith take possession of all funds, books, and papers belonging to such office, and the President of the Board of Aldermen shall appoint a person to fill the same until the said defaulting officer can be proceeded against according to law, which shall be done without delay, and until the said officer shall be restored to his duty or office, or until his successor shall be appointed, or elected, and qualified. The person so appointed shall give bond and take the oath of office in the same manner as was required of the officer whose place he is appointed to fill. If the Treasurer, or other officer so discharged as a defaulter be acquitted thereof, he shall resume his duties.

SEC. 271. Neither the Municipal Council, the Board of Education, nor any other Board, commission, committee, officer, or person, shall have power to authorize, allow, contract for, pay, or render payable, and they are prohibited from authorizing, allowing, contracting, paying, or rendering payable, in present or future, in any one month, any demand or demands, liability or liabilities, against the treasury of such city and county, or the funds thereof, which shall, in the aggregate, exceed one-twelfth part of the amount allowed

by laws existing at the time of such contract, authorization, allowance, payment, or liability, to be expended within the fiscal year of which said month is a part; *provided, however,* that if, at the beginning of any month, any money remains unexpended in any of the funds set apart for maintaining the municipal government of such city and county, and which might lawfully have been expended the preceding month, such unexpended sum or sums may be carried forward and expended, by order of the Municipal Council, for the same purpose allowed by law in any succeeding month of the fiscal year. All contracts, authorizations, allowances, payments, and liabilities to pay, made or attempted to be made, in violation of this section, shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of such city and county; and all officers of such city and county are hereby charged with notice of the condition of the treasury of such city and county, and the extent of the claims against the same.

SEC. 272. It is the duty of the Superintendent of Streets to keep an exact account of all street and sewer work upon accepted streets, and it shall be the duty of the Building Committee to keep an account of all work done on all public buildings, and every other expenditure chargeable against the treasury in any of the departments under charge of said Building Committee and officers; and it is the duty of the Superintendent of Schools, the President of the Board of Education, the President of the Board of Fire Commissioners, the President of the Board of Election Directors, the President of the Board of Police Commissioners, and every other officer and Board having the power to contract any demand, or to aid in the contraction of any demand against said treasury, to keep an exact and full account of all purchases, expenditures, and liabilities made or contracted in their respective departments, and for the purpose of making such accounts, said officers shall have power to demand and receive from every other city and county officer, detailed statements in writing, when necessary to keep said accounts, and it is hereby made the duty of any and all officers to furnish said statements when demanded; such accounts shall be constantly posted up to date, so that it can be known exactly at any time what part or proportion of the monthly sum allowed by this Act and existing laws has been contracted for, paid, or rendered liable to pay in the present and future. Such accounts shall show every contract for street and sewer work, public buildings, purchases of material, or supplies, or other expenditure, in whatever department it is made, from its incipiency through the various stages of progress to completion, with the amount to be paid for the same so far as the same is capable of exact estimation, and when not, then a sworn estimate by the proper officer of the probable cost. Whenever, at any time, the contracts performed or unperformed, claims due or to become due, exceed said one-twelfth part of the amount that can be lawfully expended out of any fund in the current fiscal year, the President of

the Board, head of department, or other officer or Board having the supervision of such expenditure, shall give notice thereof in writing as to his or their department to the Auditor and the Treasurer and to the Municipal Council a notice in writing, served upon the Clerks of each branch thereof and shall post the same in his or their office, from which time no further contracts shall be made, or expenditures authorized or allowed, until such time has elapsed as will allow of further proceedings consistent with the provisions of the law.

SEC. 273. Any failure or neglect on the part of any of said officers or Boards, or members of Boards, to comply with any of the provisions of the preceding sections shall render such officer and each member of such Board consenting thereto, liable personally and upon his official bond to any contractor or other person suffering damage by said failure or neglect; but such contractor or person damaged shall have no remedy against such city and county, and the said officers or members of Boards authorizing or aiding to authorize, auditing, or allowing any claim or demand upon or against said treasury, or any fund thereof, in contravention thereof, shall be liable in person and on his official bond to the contractor or person damaged to the extent of his loss. The Treasurer paying any claim authorized, allowed, or audited, in contravention of the provisions thereof, shall be liable on his official bond to refund the same to such city and county, and it shall be the duty of the City and County Attorney to sue for the same, if necessary.

SEC. 274. In case of any great public calamity or danger, such as earthquakes, conflagrations, pestilence, invasion, insurrection, or other great and unforeseen emergency, the provisions of said Act may be temporarily suspended, as to any lawful contract, authorization, or expenditure necessary to avert, mitigate, or relieve such evil; *provided*, that such expenditure, contract, or authorization shall be passed by the unanimous vote of all members elected or appointed to each House of the Municipal Council, and entered in the Journals of each House, and the character and fact of such emergency must be recited in the ordinance authorizing such action; and such ordinance must be approved by the Mayor, Auditor, and Treasurer of such city and county.

SEC. 275. All city and county official printing and advertising, for all departments thereof, excepting that of the Sheriff's office, shall be let by the Municipal Council during the month of January of each year, to the lowest responsible bidder, printing, publishing, and proposing to advertise in a newspaper of general circulation in such city and county, and that has been in existence at the time of the letting of said contract at least three years; *and provided*, that any such newspaper may bid for the whole or any part of the advertising. The bids shall be opened by the Board of Aldermen, and all bidders may be present thereat. No bid shall be considered in which there shall be any erasure or interlineation. All such contracts, when awarded, shall be entered into and bonds taken by the Clerk of the Board of Aldermen,

in such sum and containing such conditions as the Board of Aldermen shall provide.

SEC. 276. All contracts relating to city and county affairs shall be in writing, signed and executed in the name of the city and county by the officer authorized to make the same; and in cases not otherwise directed by the law, such contracts shall be made and entered into by the Mayor. All contracts shall be countersigned by the Auditor and registered, by number and dates, in his office, in a book to be kept by him for that purpose. In all cases of letting contracts to bidders, when for any reason a contract fails of completion, new bids shall be invited, opened, and awarded, as provided in this Act in the first instance, until a sufficient contract is executed. In all cases when the Board of Aldermen have reason to think the prices too high, or that bidders have combined together to prevent genuine bidding, or for any reason that the public interests will be subserved, it may, in its discretion, reject any and all bids, and cause the same to be readvertised. The provisions of this Act, as to bids and contracts, shall be enforced by the Municipal Council by appropriate ordinances as to all bids, proposals, and contracts with such city and county, or any department thereof.

SEC. 277. Any officer or Commissioner of such city and county, or any officer or member of any House, Board, or department of the government thereof, who shall be, directly or indirectly, interested in, or a beneficiary or participant of the profits of any contract made with or for such city and county, or any Board or department thereof, or who shall participate in the profits made by any person or persons upon services, labor, purchases, sales, subsistence, supplies, materials, or any article or thing furnished to or done for such city and county, or any institution, public work, or branch, or department of the government thereof, or sold by the same, which contract, profit, purchase, sale, or supply is made, or could have been made, influenced, or brought about through or by means of the official action or conduct of such officer, Commissioner, or member of such Board, except the official salary or compensation of such officer, Commissioner, or member of such Board or department provided expressly by law, shall be deemed guilty of a felony, and, on conviction by any Court of competent jurisdiction, punished accordingly. Any Commissioner, officer, clerk, or other person having custody of or access to any bids or proposals, whether sealed or otherwise, for supplying or furnishing any goods, provisions, subsistence, labor, material, printing, or other thing of any nature, or constructing, cleaning, repairing any work or thing, or doing or furnishing any thing whatsoever to such city and county, or any department, Board, Commissioner, or officer thereof, who shall open or examine into any one or more of such bids or proposals, or change, interline, alter, or otherwise tamper with the same, or shall purposely find out the contents thereof, or who shall, aid, abet, assist, or permit another so to do before or in advance of the time prescribed by law for the opening thereof, or any lawful

postponement of such time, shall be deemed guilty of a felony, and, on conviction by any Court of competent jurisdiction, shall be punished accordingly.

SEC. 278. The Mayor shall see that all contracts and agreements with the city are faithfully kept and performed, and to this end he shall cause legal proceedings to be instituted and prosecuted against all persons or corporations failing to fulfill their agreements. And it is the duty of any and every city and county officer, when it shall come to his knowledge that any contract with such city and county relating to the business of any office whatever, has been or is about to be violated by the other contracting party, forthwith to report the fact to the Mayor. A failure to do so shall be a sufficient cause for the removal of any officer of any department. The Mayor shall give a certificate, on demand, to any officer giving such information that he has done so, which certificate shall be evidence in exoneration from a charge of neglect of such duty. The City and County Attorney shall prosecute all suits so ordered by the Mayor.

SEC. 279. All questions of differences between the officers of such city and county, as to their relative duties, may be referred by either of them to the City and County Attorney, who shall examine and determine such questions, and his decision shall be final as between such officers.

SEC. 280. There shall be appointed by the Judges of the Superior Court of such city and county five competent persons Deputies to act as Interpreters and Translators of the following languages: French, German, Italian, Spanish, Portuguese, Chinese, and Selavonian. The said Deputies shall each receive a salary of one thousand two hundred dollars per annum, which shall be paid in the same manner as the salaries of other officers are paid. It shall be the duty of each of said Deputies to attend in all the Courts in and for such city and county, when required by any of the Judges thereof, without further compensation than the salaries above provided.

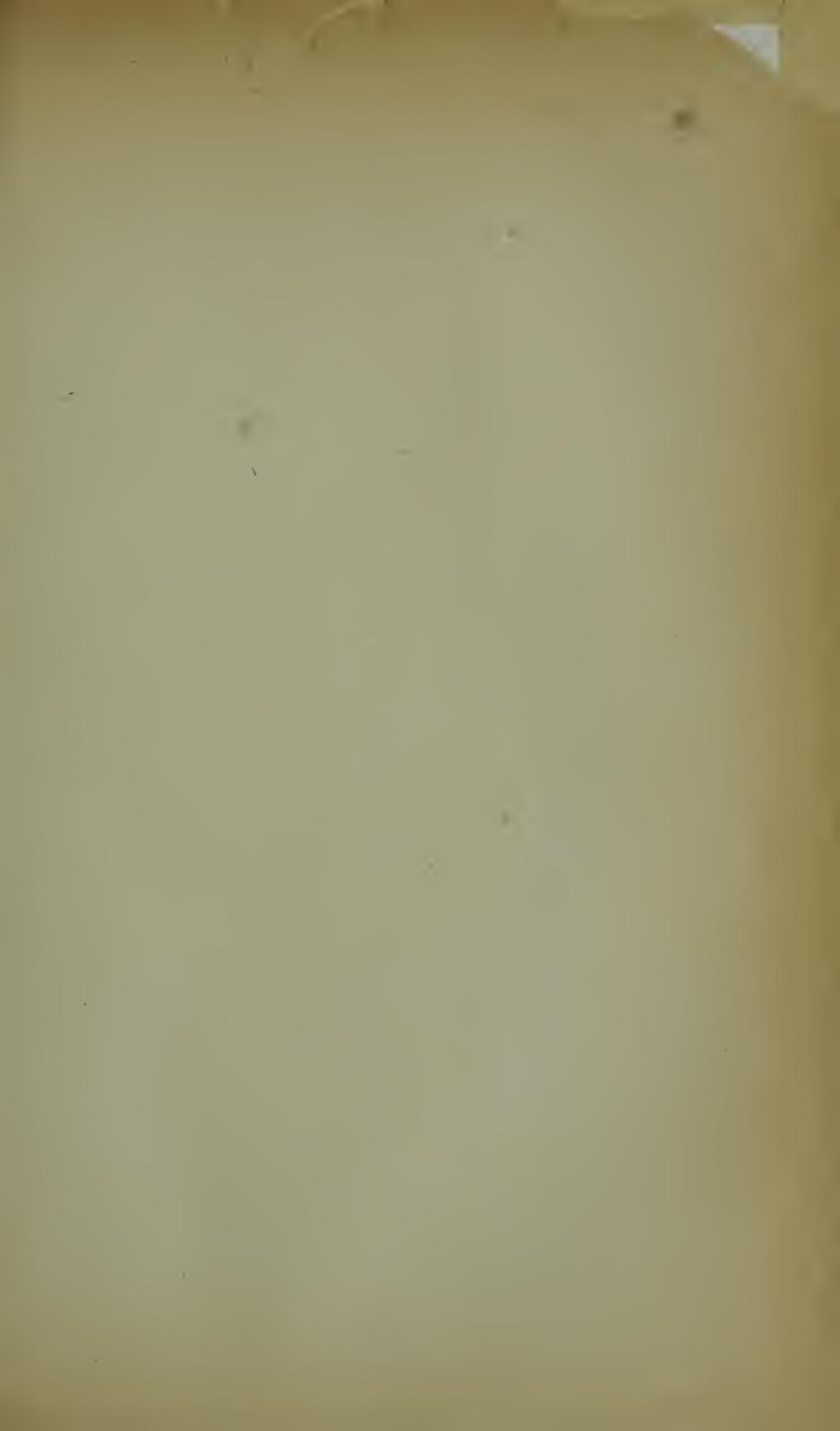
SEC. 281. The City Prison of such city and county shall be under the sole and exclusive control, direction, and superintendence of the Chief of Police, who may establish from time to time the discipline and government thereof, and may detail to duty therein such number of officers as the exigency shall require.

SEC. 282. The following officers, and the heads of the following departments of such city and county, shall report to the Municipal Council on or before the first day of August of each year, the condition of their respective departments during the fiscal year ending June thirtieth, previous thereto, embracing all their operations and expenditures: Auditor, Assessor, Tax Collector, County Clerk, Superintendent of Streets, Fire Department, Hospital, Alms-house, Park Commissioners, Treasurer, Sheriff, County Recorder, City and County Surveyor, License Collector, Public Schools, Fire Alarm and Police Telegraph, Pound-keeper, Board of Health, City and County Attorney, Industrial School, Police, Coroner, Health Officer, Justices' Court, City Hall Commissioners,

Home for the Care of the Inebriate, Board of Election Directors, Commissioner of Elections, House of Correction, City Cemetery, Free Public Library, and the Building Committee of the Municipal Council. Immediately after the first Monday in February, the Mayor and Municipal Council shall make up and publish an extract from these several reports, and other sources, of the operations, expenditures, and condition of all departments of government of such city and county.

SEC. 283. This Act shall take effect on the first day of July, eighteen hundred and eighty, except section five, which shall take effect immediately.







# CHARTER

FOR THE

CITY AND COUNTY

OF

# SAN FRANCISCO

PROPOSED BY THE

BOARD OF FREEHOLDERS,

Elected in pursuance of the provisions of Section 8, Article XI, of  
the Constitution of the State of California.

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SAN FRANCISCO :

S. W. RAVELEY, PRINTER, 518 CLAY STREET.

1880.

## Board of Freeholders.

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COL. J. P. HOGE, PRESIDENT.

S. M. WILSON,	T. B. BISHOP,
M. M. ESTEE,	J. M. McDONALD,
WASH. BARTLETT,	R. C. HARRISON,
A. S. HALLIDIE,	ISAAC WORMSER,
CHAS. KOHLER,	M. P. JONES,
T. I. BERGIN,	DR. J. M. McNULTY,
JAMES T. BOYD,	A. COMTE, JR.
	Wm. T. Atwood,
	Secretary.

# CHARTER

*Prepared and proposed for the City and County of  
San Francisco*

BY THE

## BOARD OF FIFTEEN FREEHOLDERS

Elected in pursuance of the provisions of Section 8, Article XI, of the Constitution of the State of California.

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### ARTICLE I.

#### **Boundary and Rights, Duties and Liabilities of the Municipality.**

##### CHAPTER I.

**SECTION 1.** The corporation or body politic and corporate, now existing, and known as the City and County of San Francisco, shall remain and continue to be a body politic and corporate, in name and in fact, by the name of the City and County of San Francisco, and by that name, shall have perpetual succession, may sue and defend in all courts and places, and in all matters and proceedings whatever, and may have and may use a common seal, and the same may alter at pleasure, and may purchase, receive, hold, and enjoy real and personal property within and without the City and County of San Francisco, and sell, convey, mortgage and dispose of the same for the common benefit; receive bequests, gifts and donations of all kinds of property within and without the city in fee simple and in absolute ownership, or in trust for charitable or other purposes, and do all acts necessary to carry out the purposes of such gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust.

The boundaries of the City and County of San Francisco shall be as follows:

Beginning at the southwest corner of the City and County of San Francisco, being the northwest corner of San Mateo County in the Pacific Ocean, and on the line of the western boundary of the State of California, three miles from shore, and also on the extension of the northern line of township three, (3) South of Mount Diablo Base and Meridian; thence northerly along the western boundary of the State of California, to the southwest corner of Marin County, as

established by Section 3957 of the Political Code; thence to the westerly extension of low water line on the northern side of the entrance to San Francisco Bay, and on the south line of Marin County; thence easterly through Point Bonita and Point Caballo, (or Cavallo) to the most southeastern point of Angel Island, all on the line of Marin County, as established in said Section 3957 of the Political Code; thence northerly along the easterly line of Marin County to the northwest point of Golden Rock (also known as Red Rock) being a common corner of Marin, Contra Costa and San Francisco Counties; thence due southeast four and one half miles, more or less, to a point distant three statute miles from the natural high water mark on the eastern shore of San Francisco Bay, being a common corner of Contra Costa, Alameda and San Francisco Counties; thence southerly and south-easterly and along the western boundary of Alameda County, as established by Section 3953 of the Political Code, to a point on the line first named (considered as extended across said Bay); thence west along said first named line to the place of beginning.

The Islands in said Bay, known as Alcatraces and Yerba Buena, and the Islands in said Ocean known as Farallones, shall be attached to and form a part of said city and county.

SEC. 2. The public buildings, lands and property, all rights of property and rights of action, all moneys, revenues and income belonging or appertaining to the city and county of San Francisco, are hereby declared to be vested in and to appertain to the said city and county of San Francisco, under this charter; and the moneys in the Treasury of said city and county, and all the revenues and incomes from whatsoever source arising, including delinquent taxes upon persons and property, appertaining to the said city and county, shall be handed over, paid and received into the Treasury of the said city and county of San Francisco, as a part of the General Fund; or where the said moneys, revenues and income, or any part thereof, have been heretofore and still remain set apart and dedicated by lawful authority to the use of a special fund, the necessity and objects of which still continue, the same shall continue to be received, held, and disbursed for the same use, unless it is otherwise provided in this Charter: and such corporation, organized under this Charter, shall not be deemed or construed to be a new or different corporation, but a continuation of the former and last existing one, with all its rights and liabilities remaining in full force and effect.

SEC. 3. The said City and County of San Francisco shall continue to have, hold and enjoy all public buildings, lands and property, real and personal, rights of property, rights

of action, suits and actions, money, revenue, income, books, documents, records, archives, claims, demands, and things in possession and action of every nature and description, and shall be liable to all debts, liabilities, dues, and duties, as fully as if no change or reorganization under this Charter had ever occurred.

**SEC. 4.** Suits, actions and proceedings may be brought in the name of the said city and county, for the recovery of any property, money or thing belonging thereto, or the enforcement of any rights or contracts with said city and county, whether made or arising or accruing either before or after its reorganization hereunder; and all existing suits, actions and proceedings in the Courts or elsewhere shall be carried on by or against the said city and county, as if no change had been made: and from any judgment rendered against said city and county, in any Court, an appeal may be taken by said city and county, when an appeal is allowed by law, without the giving of an appeal bond or undertaking, on complying with the other requirements prescribed by law.

## CHAPTER II.

### OF WARDS.

**SECTION 1.** The city and county of San Francisco shall be divided into twelve wards.

**SEC. 2.** The lines and boundaries of the Wards are hereby fixed and defined as follows:

The First Ward shall be bounded on the north, east and south by San Francisco Bay; on the west by Montgomery and Second streets.

The Second Ward shall be bounded on the north by the Bay of San Francisco; on the west by Dupont and Third streets; on the south by China Basin and the Bay of San Francisco; and on the east by Second and Montgomery streets.

The Third Ward shall be bounded on the north by the Bay of San Francisco; on the west by Stockton and Fourth streets; on the south by China Basin and the Bay of San Francisco, and on the east by Third and Dupont streets.

The Fourth Ward shall be bounded on the north by the Bay of San Francisco; on the west by Powell and Fifth streets; on the south and east by Central Basin and the Bay of San Francisco, and on the east by Fourth and Stockton streets.

The Fifth Ward shall be bounded on the north by the Bay of San Francisco; on the west by Taylor and Sixth streets; on the south by Santa Clara street and Central Basin and the Bay of San Francisco; on the east by Central Basin, the Bay of San Francisco, Fifth and Powell streets.

The Sixth Ward shall be bounded on the north by the Bay of San Francisco; on the west by Leavenworth street to McAllister, McAllister to Market, Market to Seventh, Seventh to Butte, Butte to the Bay of San Francisco; on the east by the Bay of San Francisco and Central Basin, from Central Basin on Santa Clara street to Sixth, Sixth to Market, Market to Taylor, Taylor to the Bay of San Francisco.

The Seventh Ward shall be bounded on the north by the Bay of San Francisco; on the west by Larkin street, from the Bay to Ninth street, thence on Ninth to Channel, thence on Channel to Potrero Avenue, thence on Potrero Avenue to Islais Creek channel; on the south by Islais Creek channel, and on the east by the Bay of San Francisco; thence along Butte street to Seventh street, Seventh to Market, Market to McAllister, McAllister to Leavenworth, Leavenworth to the Bay of San Francisco.

The Eighth Ward shall be bounded on the north by the Bay of San Francisco; on the west by Van Ness Avenue to Market street, Market to Eleventh, Eleventh to Harrison, Harrison to the Southern Pacific Railroad, Southern Pacific Railroad to the city and county line. On the south by the city and county line; on the east by the Bay of San Francisco, between the city and county line and Islais Creek channel; thence west along Islais Creek channel and Islais Creek to Potrero Avenue, north on Potrero Avenue to Channel street, Channel to Ninth, Ninth to Larkin, Larkin to the Bay of San Francisco.

The Ninth Ward shall be bounded on the north by the Bay of San Francisco. On the west by Laguna street to Bay street; thence east on Bay to Gough, Gough to Market, Market to Brady, Brady to West Mission, West Mission to Mission, Mission to Southern Pacific Railroad. On the south by the Southern Pacific Railroad, from Mission to Harrison street. On the east by Harrison street, from the Southern Pacific Railroad to Eleventh, Eleventh to Market, Market to Van Ness Avenue, Van Ness Avenue to the Bay of San Francisco.

The Tenth Ward shall be bounded on the north by Bay street; on the west by Laguna and Guerrero streets; on the south by the Southern Pacific Railroad, from Guerrero to Mission street, and on the east by Mission street to West Mission, West Mission to Brady, Brady to Market, Market to Gough, and Gough to Bay street.

The Eleventh Ward shall be bounded on the north by the Bay of San Francisco; on the west by Steiner and Sanchez streets to Junction street—thence east on Junction to the Southern Pacific Railroad; thence northerly on the Southern Pacific Railroad to Guerrero street; thence north on Guerrero to Market, Market to Laguna, Laguna to the Bay of San Francisco.

The Twelfth Ward shall be bounded on the north by the Bay of San Francisco; on the west by the Pacific Ocean; on the south by the southern boundary of the city and county of San Francisco, between the Pacific Ocean and the Southern Pacific Railroad; thence northerly along the Southern Pacific Railroad to Junction street; thence west on Junction to Sanchez street; thence north on Sanchez to Steiner, Steiner to the Bay of San Francisco.

The Islands in said Bay known as Alcatraces and Yerba Buena, and the Islands in said Ocean known as Farallones, shall be attached to and form a part of the First Ward of the City and County of San Francisco.

SEC. 3. The Common Council shall, between the 1st and 30th days of January, 1886, and between the 1st and 30th days of January of every tenth year thereafter, by ordinance, re-district the said City and County of San Francisco into twelve wards. Said wards shall be made as equal in population, political or party differences as possible—the object being that both the population and the political tenets of the people shall be equally and fairly divided by said wards.

## ARTICLE II.

### **Of the Legislative Department.**

#### CHAPTER I.

SECTION 1. The general legislative power of this corporation shall be vested in two Boards of Supervisors to be styled respectively the Board of Aldermen and the Board of Assistant Aldermen who together shall form the Common Council of the City and County of San Francisco.

SEC. 2. The Board of Aldermen shall consist of twelve persons, who shall be elected by general ticket from the city and county at large by the qualified voters thereof at the election hereinafter provided for, and shall hold office for the term of four years, subject to the exception stated in the next section, by which they shall be so classified that after the first election only six shall be elected every two years. Every member of the Board of Aldermen shall be a qualified voter, at least thirty years of age, and shall have been a citizen of this State, and an inhabitant of the city and county for five years, next before the day of his election.

SEC. 3. Of the members of the Board of Aldermen first elected, the six receiving the highest number of votes shall hold their office for four years, and the others six for only two years, and in case of a tie vote at the first election, the right to hold for two years or for four years shall be deter-

ined by lot between the contestants. At each election thereafter, members of the Board of Aldermen shall be elected to succeed those whose terms are about to expire.

SEC. 4. The Board of Assistant Aldermen shall consist of one member from each ward of the said city and county, to be chosen every two years by the qualified voters of the several wards thereof at the election herein provided for, and they shall hold office for the term of two years. The qualifications of members of the Board of Assistant Aldermen shall be the same as those herein prescribed for members of the Board of Aldermen.

SEC. 5. No person shall be eligible as a member of the Board of Aldermen or Board of Assistant Aldermen who shall have been convicted of malfeasance in office, bribery or any other infamous crime, and any such conviction during his term of office, shall cause the forfeiture of his seat in the said Board, and the vacancy shall be filled as in other cases.

SEC. 6. Any vacancy occurring in the office of Alderman or Assistant Alderman shall be filled by the Mayor and the person so selected by him, shall possess the qualifications herein above prescribed for the members of either of said Boards, and shall hold office for the unexpired term.

SEC. 7. The Boards shall meet in separate chambers and, the majority of all the members elected or appointed to each shall be a quorum ; but a smaller number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as each Board may prescribe.

SEC. 8. Each Board shall:

*First*—Choose a President from its own members, and when chosen he can be removed before the expiration of his term as Alderman or Assistant Alderman only by the vote of three-fourths of all the members of the Board of which he shall have been chosen President.

*Second*—Appoint a Clerk and other officers.

*Third*—Determine the rules of its own proceedings.

*Fourth*—Be the sole judge of the qualifications, election and returns of its own members.

*Fifth*—Keep a journal of its proceedings and allow the same to be published, and the ayes and noes of the members on any question shall, at the desire of any member, be taken and entered therein.

*Sixth*—Sit with open doors.

*Seventh*—Have authority to punish its members for disorderly or contemptuous behavior in its presence during its session, and to expel any member with the concurrence of two-thirds of the members elected or appointed to the Board, specifying in the order of expulsion the cause thereof ; but

no member shall be expelled a second time for the same cause. Every member expelled from either Board shall thereupon forfeit all his rights and powers as Alderman or Assistant Alderman.

*Eighth*—Have power to compel attendance of witnesses and production of papers pertinent to any business before the Board.

SEC. 9. The Boards shall each meet upon the first Monday of each month, or if that day shall be a legal holiday, then upon the succeeding day, and neither Board shall, without the consent of the other, adjourn for more than seven days at any one time, or to any other place than that in which the two Boards may be sitting. They shall also meet at such times as are otherwise provided for in this Charter.

SEC. 10. The Clerk of the Board of Aldermen shall hold office during the pleasure of the Board. He shall have power to administer oaths and affirmations in all cases pertaining to his duties and the affairs of his office without charge for the same, and shall perform such other services as shall be prescribed by the Board. He shall, by virtue of his office, be Clerk of the Common Council, and shall perform all of the duties of Clerk of the Common Council except such as are assigned or appertain to the Clerk of the Board of Assistant Aldermen, without additional compensation to that paid him as Clerk of the Board of Aldermen. It shall be his duty to keep in his custody the seal of the City and County, and all leases, grants, deeds of conveyance, and other documents, records and papers not specially pertaining or applying to the Board of Assistant Aldermen; and his signature shall be necessary to all leases, grants, contracts and conveyances; he shall also keep and retain in his custody all resolutions and ordinances of the city and county after the same shall have received the approval of the Mayor or otherwise become valid under this Charter; it shall be his duty to keep open for inspection at all reasonable times any and all papers and documents, instruments, records, resolutions or ordinances in his custody, and to furnish copies thereof certified under his name and the seal of the City and County, to all persons demanding the same and paying therefor the proper fees.

SEC. 11. The Clerk of the Board of Assistant Aldermen shall hold office during the pleasure of the Board. He shall have power to administer oaths and affirmations in all cases pertaining to his duties and the affairs of his office without charge for the same, and to certify and authenticate copies of all records, papers and documents in his official custody to all persons demanding the same, and paying

therefor the proper fees, and shall perform such other services as shall be prescribed by the Board. It shall be his duty to keep open for inspection at all reasonable times the records and minutes of the proceedings of the Board, and all instruments in writing in his official custody.

SEC. 12. No member of the Common Council shall, during the term for which he is elected or appointed, be eligible to any other office, Federal, State or Municipal, nor shall he be an employee of the City and County, or of either of the said Boards in any capacity whatever, and no claim for compensation shall be audited or paid for services as such officer or employee, nor shall he directly or indirectly be interested in any contract with the city and county, or any Department or institution thereof, nor shall he advance moneys or furnish material or supplies for the performance of any such contract.

SEC. 13. Every Legislative Act of the city and county shall be by ordinance or resolution, and the style of ordinance shall be: "*Be it ordained by the Common Council of the City and County of San Francisco as follows.*" No ordinance shall be passed, except by bill, and no bill shall be so amended in its passage through either Board as to change its original purpose.

SEC. 14. No bill shall become an ordinance unless on its final passage a majority of the members elected or appointed to each House vote in its favor, and the vote be taken by ayes and noes, and the names of the members voting for and against the same be entered in the Journal.

SEC. 15. No amendment to bills by either Board shall be concurred in by the other, except by a vote of the majority of the members elected or appointed thereto, taken by ayes and noes and the names of those voting for and against, recorded in the Journal thereof, and reports of committees of conference shall be adopted in either Board only by the vote of the majority of the members elected or appointed thereto taken by ayes and noes, and the names of those voting recorded in the Journal.

SEC. 16. No ordinance shall be revised, re-enacted or amended by a reference to its title; but in such case the ordinance revised or re-enacted, or the section thereof amended, shall be re-enacted at length as revised, re-enacted or amended.

SEC. 17. Every ordinance shall embrace but one subject which shall be expressed in its title; but if any subject shall be embraced in an ordinance which shall not be expressed in its title, such ordinance shall be void only as to so much thereof as shall not be expressed in its title.

SEC. 18. When a bill is put upon its final passage in either Board, and failing to pass, a motion is made to reconsider the vote by which it was defeated, the vote upon such motion to reconsider shall be immediately taken, and the subject finally disposed of before the Board proceeds to any other business.

SEC. 19. No ordinance shall take effect or go into force until ten days after its approval unless it is otherwise expressed in the said ordinance.

-SEC. 20. Every bill, after it shall have passed the two Boards, shall be signed by the presiding officer of each of the Boards in open session in authentication of its adoption by said Board. In signing such bill for authentication the presiding officer shall call the attention of the Board to the bill, and that he is about to sign it, and if any member request, the bill shall be read at length for information as to its correctness as enrolled. If any member shall object that the bill is not the same in substance and form as when considered and passed by the Board, such objection shall be passed upon, and if sustained, the presiding officer shall withhold his signature and the bill shall then be corrected and signed before the Board proceeds to any other business.

SEC. 21. Every bill which shall have passed the two Boards and been authenticated as provided for in the last section, shall be presented to the Mayor for his approval. The Mayor shall return such bill to the Board in which it originated within ten days after receiving it. If he approve it, he shall sign it, and it shall then become an ordinance. If he disapprove it, he shall specify his objections thereto in writing. If he do not return it with such disapproval within the time above specified, it shall take effect as if he had approved it. The objections of the Mayor shall be entered at large on the Journal of the Board in which such bill originated, and the Board shall cause them to be immediately published in the official newspaper. The Board to which said bill shall have been returned with the objections of the Mayor, shall after five days and within twenty days after such bill shall have been so returned, proceed to reconsider and vote upon the same, and if the same shall, upon reconsideration, be again passed by both Boards by a vote of at least three-fourths of all the members elected or appointed to each Board, it shall take effect; but if the bill shall fail to receive upon the first vote thereon such number of affirmative votes it shall be deemed finally lost. In all cases the votes shall be taken by ayes and noes and the names of the persons voting for or against its passage on such reconsideration shall be entered in the Journals of each

Board ; and if three-fourths of all the members elected or appointed to each Board vote in the affirmative, the presiding officers of the respective houses shall certify that fact on the bill, attesting the same by their signature, and when thus certified, the bill shall become an ordinance with like effect, as if it had received the approval of the Mayor.

SEC. 22. All ordinances and resolutions shall be deposited with the Clerk of said Common Council, who, after recording the same at length in a suitable book provided therefor, shall preserve the same in the archives of his office.

SEC. 23. No general appropriation bill shall ever be passed, but every appropriation shall be for the specific amount of the claim to be paid, and no more ; and each ordinance authorizing the payment of money shall contain one claim only which shall be expressed in the title. Every ordinance providing for any specific improvement, the granting of any privilege or involving the lease or appropriation of public property, or the expenditure of public moneys (except for sums less than one hundred dollars) or levying any tax or assessment, and every ordinance imposing a new duty or penalty shall, after its introduction in either Board, be published with the ayes and noes in the official newspaper at least five successive days before final action upon the same by the Board in which it was introduced ; and in case such ordinance shall be amended before final passage in said Board, then the bill as amended shall be so published in the same manner and for a like period of time before final action by such Board thereon.

## CHAPTER II.

### OF LEGISLATIVE POWERS.

SECTION 1. The Common Council shall have power to pass ordinances :

1. To regulate traffic and sales in the streets, highways, roads and public places.
2. To regulate the use of the streets, highways, roads and public places, for foot passengers, animals, vehicles, cars and locomotives.
3. To regulate the use of sidewalks; and to prevent the extension of building fronts and house fronts within the stoop lines.
4. To prevent encroachment upon and obstruction to streets, highways, roads and public places, and to authorize and require the Commissioners of Public Works to remove the same ; but shall have no power to authorize

the placing or continuing of any encroachment or obstruction upon any street, avenue or sidewalk except for the temporary use and occupation thereof during the erection or repair of a building on a lot adjoining the same.

5. To regulate the opening of street surfaces, the laying of gas and water mains, the building and repairing of sewers, and the erecting of gas lights; and to provide that gas and water pipes and telegraph wires shall be laid under the sidewalks near the outer edge thereof.

6. To regulate the numbering of the houses and lots on the streets and avenues, and the naming of the streets, avenues and public places.

7. To regulate and prevent the throwing or depositing of ashes, offal, dirt, rubbish or garbage in the streets.

8. To regulate the cleaning of the streets, avenues, sidewalks and gutters.

9. To regulate the use of the streets and sidewalks for signs, sign posts, awnings, awning posts, horse troughs, urinals, telegraph posts and other purposes.

10. To provide for and regulate street pavements, crosswalks, curbstones, gutter-stones, sidewalks, and the grade of streets; and to provide for regulating grading, guttering, sewerage and lighting streets, roads, places and avenues.

11. To regulate public cries, advertising noises, steam whistles, and the ringing of bells in the streets; and to control and limit traffic on the streets, avenues and public places.

12. In relation to street beggars, vagrants and mendicants.

13. In relation to the use of guns, pistols, firearms, firecrackers, fireworks and detonating works of all descriptions.

14. In relation to intoxication, fighting and quarreling in the streets.

15. In relation to places of public amusement.

16. In relation to exhibiting banners and placards or flags in or across the streets, or from houses or other buildings.

17. In relation to the exhibition of advertisements or handbills along the streets, avenues or public places.

18. In relation to the construction, repairing and use of vaults, cisterns, areas, hydrants, pumps and sewers.

19. In relation to partition fences and walls.

20. In relation to the construction, repair, care and use of markets and market places.

21. In relation to licensing and regulating hackney carriages and other public passenger vehicles, and to fix the rates to be charged for the transportation of persons, bag-

gage, goods, merchandise, and property, or either, thereon; and to license and regulate all vehicles used for the conveyance of merchandise, earth, and ballast, or either; and also to license and regulate persons employed in conveying baggage, property, and merchandise, or either, to or from any of the wharves, slips, bulkheads, or railroad stations, or from place to place within the limits of said City and County; to provide for the summary removal and disposition of any or all vehicles found in the streets, highways and public squares, during certain hours of the day or night, to be designated by the Common Council, and in addition to all other remedies, to provide by regulation for the sale or other disposition of such vehicles; to protect the public from injury by runaways, by punishing persons who negligently leave horses or carriages in the street; to prescribe the width of the tires of all drays, trucks, carts, and other vehicles, and the weight to be carried thereby, for the preservation of the streets and highways.

22. To fix and establish the amount of every license paid into the City and County Treasury for City and County purposes.

23. In relation to the mode and manner of suing for, and collecting liabilities, and keeping accounts of the city and county, and disposing of the penalties collected for violation of ordinances.

24. In relation to the erection and repairing of public fountains for the use of men and animals at convenient points along the streets and avenues, and in public places.

25. To provide for the security, custody and administration of all property of said City and County, and to purchase property, situated, as well without as within the boundaries of said City and County, which may be required for municipal purposes, but, except as otherwise provided in this Charter, without any power to sell or encumber the same, or lease any part thereof for more than ten years, except, however, that such personal property belonging to the Fire, Street and other Departments, as they may deem unsuited for the uses and purposes for which the same was designed, or so much worn and dilapidated as not to be worth repairing, may be sold or exchanged.

26. To sell at such times and upon such terms as may be deemed proper, all lands bid off in the name of, and conveyed to said city and county, at any sale thereof, for delinquent assessments, as in this Charter provided.

27. To provide for lighting the streets, squares, parks, public places and public buildings. But no contract for the same or any part of the same shall be made for more than ~~three~~ years; nor shall any contract to pay for gas or other il-

luminating material more than is legally charged to ordinary consumers, or than the usual market rates, be valid.

28. To provide water for municipal purposes.

29. To provide for inclosing, improving and regulating all public grounds of said City and County.

30. To prohibit the erection of wooden buildings or structures within fixed limits, and to restrict and limit the height of such buildings or structures; to regulate the sale, storage and use of gun powder, Giant powder, dynamite, nytro-glycerine and other explosive or combustible materials and substances, and the places of their manufacture, as well as the manufacture of acids; and to make all useful regulations in reference to the manufacture, storage and transportation of all such materials and substances, and the maintenance of acid works, slaughter-houses, brick-kilns, tanneries, and all other manufactoryes and works of every description that may endanger the public safety, health or comfort; and to regulate all noxious trades, and restrict the prosecution thereof to such fixed limits as may from time to time seem proper, or exclude them from the said City and County; and to make all necessary regulations for protection against fire, as well as such rules and regulations concerning the erection and use of buildings as may be necessary for the safety of the inhabitants of said City and County.

31. To permit the laying down of railroad tracks and running cars thereon, along any street or portion of street, for the sole purpose of excavating and filling in a street or portion of a street, or adjoining lots, and for such limited time as may be necessary for the purposes aforesaid, and no longer.

32. To regulate and provide for the employment, on the public works of said city and county, of prisoners sentenced to labor thereon; also to maintain and regulate city and county jails, prisons, and Houses of correction, and other places of punishment, confinement and reformation; and to establish, in connection therewith, manufacturing or laboring establishments.

33. To maintain and regulate a Home for the Care of the Inebriate.

34. To provide places for the detention of witnesses, separate and apart from any place where criminals or persons accused of public offences are imprisoned.

35. To maintain and improve, or discontinue the City Cemetery; and to regulate and prohibit burials within the city and county of San Francisco, and to provide for the disinterment and removal from the city and county of the remains of persons buried therein.

37. To make general regulations in regard to damages and indemnity for damages caused by any individual or company or corporation in using the public streets and thoroughfares of said city and county, in laying down pipes and conduits therein, and connections therewith, necessary for introducing into and supplying said city and county and its inhabitants either with gas light or other illuminating light, or with fresh water for domestic or other purposes; *provided*, that such ordinance shall give no preference to, and make no discrimination between any persons, companies or corporations, and *provided*, further, that any person or corporation, complying with such ordinance shall have the right to introduce into said city and county, for the purpose of supplying to the said city and county and the inhabitants thereof, gas light or other illuminating light, or fresh water for domestic and other purposes, upon condition that the Common Council shall have the right to regulate the charges thereof.

38. To fix and determine in the month of February of each year, to take effect on the first day of July thereafter, the rates or compensation to be collected by any person, company or corporation in this city and county for the use of water and gas light, or other illuminating power, supplied to the city and county, or the inhabitants thereof, and to prescribe the quality of gas or other illuminating power, and to prescribe penalties for the violation of all ordinances passed in reference thereto.

39. To provide for the construction and repair of hydrants, fire-plugs, cisterns and pumps and such other appliances as may be fit to utilize the distribution of water in the streets, public places and public buildings.

40. To regulate, license and control the business of pawn-brokers and intelligence offices, and prescribe the mode of conducting the same.

41. To license and regulate, for the purpose of city and county revenue, all such callings, trades and employments as the public good may require to be licensed and regulated, and as are not prohibited by law.

42. To make all needful rules and regulations to govern the official conduct and duties of all officers of the city and county, and to fix and regulate the charges and fees of all such officers where their fees are not otherwise fixed, and to compel the payment of all such fees and charges into the city and county Treasury, in accordance with the provisions of this Charter.

43. To prescribe rules of practice and procedure, where not otherwise provided by law, for the Justices' Court, Police

Court and such other Municipal Courts as may exist in said city and county.

44. To provide needful rules and regulations for the administration, care, maintenance and conduct of all Departments and offices in said city and county, not otherwise provided for in this Charter, so as to secure the more perfect safety of the public funds, and greater efficiency in all departments of service, and to enforce the observance of such rules and regulations.

45. To provide for the inspection and sealing of weights and measures, and enforcing the keeping and use of proper weights and measures by vendors; for the inspection of steam boilers, steam generators and steam tanks, and to license engineers in charge of the same in said city and county; for the inspection of passenger elevators; for the inspection of oil, turpentine, naptha, benzine and other burning fluids; for the inspection and weighing or measuring of hay, coal, charcoal, fire-wood and other kinds of fuel to be used in said city and county; for the inspection of milk; and to provide for the offices of Inspector to perform such duties—such officers to hold their office from the first day of January, in each year, for the period of one year, and to receive for their compensation seventy-five dollars per month each; *provided*, that the Common Council may require policemen to be detailed to perform the duties of such inspectors, or any of them, without additional compensation; *provided further*, that nothing in this subdivision shall be construed as authorizing or requiring the inspection of any article herein enumerated, which is to be shipped beyond the limits of the city and county, except at the request of the owner thereof; and *provided further*, that the inspectors under this subdivision shall be qualified by practical experience to discharge their respective duties.

46. To authorize and direct the summary abatement of nuisances, and declaring and defining by general rules what shall constitute a nuisance; to provide for the prevention and summary removal of all nuisances and obstructions in the streets, alleys, highways and public places and grounds of said city and county; to prescribe such regulations as may be necessary or expedient for the preservation of the public health and the prevention of contagious diseases; to prevent or regulate the running at large of dogs or other animals, and to authorize the destruction or impounding of the same when at large contrary to ordinance.

47. To prohibit, suppress, regulate or exclude from certain limits all houses of ill fame, prostitution and gaming; to

prohibit, suppress or exclude from certain limits all occupations, houses, places, pastimes and amusements, exhibitions and practices which are against good morals and contrary to public order and decency, or dangerous to the public safety.

48. To provide for the safe keeping and disposition of lost, stolen or unclaimed property of every kind which may at any time be in the possession or under the control of the police or other departments of said city and county.

49. To regulate or suppress, all public assemblages in, or processions through, the public streets, squares and other places, which interfere with the public travel, convenience or safety.

50. To secure the health, comfort and security of the inhabitants, and the safety and security of property and life in said city and county.

51. To make and enforce within the limits of said city and county, all such local, police, sanitary, and other regulations as are not in conflict with general laws.

52. To allow and order paid out of the Street Department Fund such sums as may be necessary for improvement of streets bordering on the water-front, and for improvement of sewers or streets in front of public property, and for such expenses for street improvements as are not assessed upon private property, and for the abatement of nuisances caused by or under authority of the city and county.

53. To allow and order paid out of the General Fund, a sum not to exceed three thousand dollars annually, for the celebration of the anniversary of our National Independence.

54. To allow and order paid out of the General Fund for the election expenses of said city and county, for each election, such sums as may be required by the Board of Election Commissioners.

55. To provide ways and means for the prosecution or defense of the claims of said city and county to any land or other property, or right belonging to or claimed by said city and county.

56. To allow and order paid out of the General Fund any final judgment against said city and county.

57. To allow and order paid out of the General Fund such sums as may be necessary for burying the indigent dead.

58. To allow and order paid out of the General Fund such sums, not to exceed five thousand dollars in any one fiscal year, as may be deemed necessary for the employment of special counsel.

59. To appropriate an amount not exceeding two hundred and fifty dollars per month, and order the same paid out of

the Treasury, to the Society for the Prevention of Cruelty to Animals, to assist said society in enforcing the law in relation to cruelty to animals.

60. To appropriate an amount not exceeding two hundred and fifty dollars per month, and order the same paid out of the Treasury, to the Society for the Prevention of Cruelty to Children, to assist said society in enforcing the law in relation to cruelty to children.

61. To provide for the levying, collection and apportionment of the revenue authorized to be collected for the erection and completion of the New City Hall, or any other public building in said city and county.

62. To levy and collect taxes and assessments for any purpose authorized by law or by any of the provisions of this Charter, subject to the limitations thereon, in this Charter contained.

63. To apportion the money derived from the revenue of said city and county to a General Fund, and such other Funds as have been or may hereafter be established by law or by virtue of this Charter.

64. To maintain and regulate a public pound, fix the limits within which animals shall not run at large; to provide for, and prescribe the duties of a Pound-keeper; to make all needful rules and regulations necessary for the proper management and control of said pound; to prescribe the fines to be paid by the owners of impounded animals; to authorize said Pound-keeper to appoint one or more assistants, whose compensation shall be paid in the same manner and from the same source as the salary of said Pound-keeper. The salary of said Pound-keeper shall be seventy-five dollars per month, and the compensation of his assistants forty dollars per month, each, and shall be paid out of the fines imposed and collected of the owners of the impounded animals, and from no other source. The expense of said public pound, to be paid out of the City and County Treasury, shall not exceed the sum of six hundred dollars a year.

65. To establish, from time to time, a convenient number of police stations; to designate the prisons to be used for the reception of all persons arrested or convicted and sentenced for public offences in cases not otherwise provided for by law.

66. To determine the fines, forfeitures and penalties which shall be incurred for the breach of any ordinance of the city and county, and also for a violation of any provision of this Charter, where no penalties are fixed thereto or provided by law; but no penalty to be imposed

shall exceed the amount of five hundred dollars or six months' imprisonment, or both and to confer upon the Police Court, or any Court of competent jurisdiction, the power to fix such penalty, in each case within the limits aforesaid.

67. To build, maintain, purchase, rent, or otherwise provide suitable buildings for rooms or accommodations for all Courts, Departments, Boards or officers of said city and county, together with all necessary attendance, furniture, fuel, light and stationery, sufficient for the convenient transaction of business.

68. To provide for a common seal for said city and county, and from time to time to alter and change the same, and also to provide for seals for the several Departments, Boards and officers of said city and county, and for altering and changing the same.

69. To open, close, straighten, or widen any street, road, or highway, or to open and lay out any new street, or highway, through public or private property in said city and county, upon making compensation to all persons whose property may be taken therefor or injuriously affected thereby, upon the conditions and in the manner in this Charter provided, and in like manner to change the grade of any street, road, or highway already laid out or established in said city and county; *provided*, that no change of grade shall be made where improvements have already been erected upon the line of the grade of the street whereof the grade is proposed to be changed, without providing and making compensation, in such manner as may be provided by law or ordinance, of said city and county, to persons whose property may be injuriously affected by such proposed change of grade.

70. To permit and allow tunnels to be constructed and maintained in accordance with such rules and regulations as the Common Council may prescribe, under the surface of any street, road, highway, public park, square, or place, in said city and county, through lands belonging to said city and county, for the passage of pedestrians or railroad cars propelled by steam or other motive power, and other carriages and vehicles for the conveyance of merchandise and passengers; *provided*, that no such permission or allowance shall be granted without the written consent of persons owning two-thirds of the property upon and along the line of the street in front whereof such tunnel is to be run; *and provided further*, that compensation shall be made in such manner as may be provided by law or ordinance of said

city and county, to all persons who may be injuriously affected by any such proposed tunnel.

71. To grant authority, for a term not exceeding fifty years, to construct railways and lay down railroad tracks upon any of the streets of said city and county upon which cars may be propelled by horses, mules, or other motive power; or by wire ropes running under the streets and run by stationary engines, upon such terms and under such restrictions, limitations and conditions as may be required by the laws of this State, or provided by ordinance of said city and county, and to make such regulations for the construction and government of street railroads as may be necessary to a full enjoyment of the franchise and the enforcement of the conditions upon which the grant is made. Any grant of such authority shall be subject to the right of the Common Council at any time by ordinance to amend, alter or repeal the ordinance granting the same in whole or in part.

72. To provide for the acquisition or condemnation of land that may be required for sewers or for the purposes of drainage or other public use.

73. To restrain and prevent any riot, mob, noise, disturbance or disorderly assembly or amusement dangerous to persons or property in any street, house or place in the city and county.

74. To make all rules and regulations necessary and proper for carrying into execution the foregoing powers and all other powers vested by this charter or by law in said city and county, or in any department or office thereof, not otherwise in this Charter specially provided.

SEC. 2. Every violation of any ordinance or any of the provisions of this Charter unless otherwise declared in this Charter, shall be a misdemeanor, and all prosecutions for the same shall be in the name of the People of the city and county of San Francisco.

SEC. 3. The Common Council in joint convention assembled shall constitute the Board of Equalization of said city and county; they shall meet at the time, and have the powers and perform the duties concerning the equalization of taxes which are now or may be prescribed by the general revenue laws of the State. The President of the Board of Aldermen shall be the presiding officer of the Board of Equalization, and the Clerk of the Board of Aldermen shall be ex-officio clerk thereof.

SEC. 4. The Board of Aldermen and the Board of Assistant Aldermen shall each have power to appoint from their members a committee consisting of three, to be

denominated "Examining Committee," and to fill all vacancies which may happen in said committee. Each of said committees shall have power to investigate the transactions and accounts of all officers having the collection, custody, or disbursement of public money, or having the power to approve, allow or audit demands on the Treasury; shall have free access to any records, books and papers in all public offices; to administer oaths and affirmations; to examine witnesses, and compel their attendance before them by subpoena and attachment for contempt, in case of their refusal to appear and testify when lawfully required; to punish for contempt any officer, ex-officer, or other person, who shall refuse or neglect when required in writing by said committee to exhibit any official record, book, document or paper in his custody, or to explain the same, or any official transaction of his own, or of any other officer, so far as he may be able. Said committees, or either of them, may visit any of the public offices when and as often as they think proper, and make their examinations and investigations therein, without hindrance. In the exercise of its functions, a concurrence of two members of either committee shall be deemed sufficient. Each of said Committees shall keep a record of their proceedings, with the names of the witnesses examined, and a substantial statement of the evidence taken. If from the examination made by either of such Committees it shall appear that a misdemeanor in office, or a defalcation, has been committed by any officer of said city and county, said Committee shall immediately report the same to the Board, which shall immediately refer the same to the Mayor, who shall thereupon take such action in the premises as he shall deem best for the public interest. It shall be the duty of any police officer of said city and county to execute the lawful process and orders of said Committees or either of them.

SEC. 5. All bills introduced into either Board authorizing the payment of any money out of the treasury, or any claim thereon, shall, before being passed, be referred to the appropriate standing committee of said Board where the same shall have been introduced, who shall present the same to the Auditor, in order that he may certify that there is sufficient money in the proper Fund, out of which such claim can lawfully be paid, and that such appropriation can be made without violating any of the provisions of this Charter; and until the Auditor shall so certify in writing, no further action shall be had on said bill. It shall be the duty of the Auditor, with reasonable promptitude, to ascertain the fact and to give a certificate when the facts warrant him in so doing, and not otherwise.

SEC. 6. No grant of any franchise, right or privilege, or of the authority to exercise any franchise or privilege, that may be made by the Common Council, shall have any validity or effect, unless the person or persons to whom the same is made, or their assigns, shall within twelve months thereafter commence the exercise and enjoyment of the same; and whenever any franchise or privilege shall have been in disuse, in whole or in part, for the period of one year, it shall be deemed abandoned and forfeited, to the extent of such disuse, and the said franchise or privilege, or that part thereof so in disuse, shall no longer be exercised or enjoyed.

SEC. 7. Every grant of a franchise, right or privilege shall be subject to the right of the Common Council at any time thereafter to repeal, change or modify the said grant, and every ordinance making such grant, shall contain the reservation of the right of the Common Council to repeal, amend or modify the said ordinance.

### CHAPTER III.

#### OF CONTRACTS.

SECTION 1. All contracts exceeding in amount the sum of one hundred dollars, for goods, merchandise, stores, supplies, subsistence, printing, building, or other work or thing for said city and county, as well as for all subsistence, supplies, drugs, and all other necessary articles and things for hospitals, prisons, public institutions, and other Departments of said city and county not otherwise specifically provided for in this Charter, must be made by the Common Council with the lowest bidder offering adequate security, after due public notice published for not less than five days in two newspapers of general circulation published in said city and county, one of which shall be the official newspaper, and no purchase thereof or liability therefor shall be made or created except by contract. No bid, by persons not regular dealers, (meaning persons permanently established in business and dealing in the articles for which bids are solicited), shall be considered in any case where bids by such dealers can be had. All proposals shall be accompanied with a certificate of deposit or certified check, payable at sight on a solvent bank or banking house in said city and county, of one thousand dollars, where the amount of the bid shall exceed five thousand dollars, and where it shall be less than five thousand dollars, of ten per cent, on the amount of the bid, payable to the order of the Clerk of the Common Council. If the bidder to whom

the contract is awarded, shall for five days after such award, fail or neglect to enter into the contract and file the required bond, it shall be the duty of the Clerk to draw the money due on said certificate of deposit or check, and pay the same over to the Treasurer. All bids or proposals shall be opened by the Board of Aldermen, and all contracts shall be awarded by the Common Council by ordinance. In all advertisements for proposals, quantity and quality of articles shall be fully stated, and any bidder may bid for any article named. The award as to each article shall, in all cases, be made to the lowest bidder for such article, and where a bid embraces more than one article, the Board shall have the right to accept or reject such bid as to any one or more articles embraced in said bid. The Common Council shall require bonds, with sufficient sureties, for the faithful performance of every contract. The Clerk of the Common Council shall furnish suitable printed blanks for all such proposals, contracts and bonds. All bids shall be sealed and delivered by the bidder to the Clerk of the Common Council, and opened by the Board of Aldermen at an hour and place to be stated in the advertisement for proposals, in the presence of all bidders who may attend, and the bidders may inspect the bids. All bids with alterations or erasures shall be rejected. Any person who shall open, examine, or inspect any sealed proposal after the same has been delivered to the Clerk of the Common Council, before the same has been opened for award as above provided, shall be guilty of a misdemeanor.

SEC. 2. All contracts for subsistence of prisoners, must be given out annually by the Common Council, at a fixed price per day for each prisoner and person connected with the prison; and the advertisement for proposals published as in the last section provided, shall specify each article that will be required, the quality thereof, the quantity for each person, and the existing and probable number of persons to be supplied. All articles of food supplied for the prisons, hospitals or other public institutions, must be sound and wholesome, and subject to inspection and rejection by the Health Officer, or by the principal executive officer of the prison, institution or Department for which the same are supplied; all of which must be expressed in the contract therefor.

SEC. 3. All city and county official advertising, including that of the Sheriff's office, excepting the delinquent tax list, shall be in like manner let by the Common

Council, to the lowest responsible bidder publishing a daily newspaper of general circulation in said city and county, that has been in existence at the time of the letting of said contract at least two years; *provided*, that the award shall be made to the bidder making the lowest aggregate bid.

SEC. 4. The Clerk of the Common Council shall annually, under the directions of said Council, advertise for proposals for supplying the various Departments, Officers and Offices of the city and county with stationery and supplies in the nature of stationery, including the manufacture of blank books and the printing of blanks. Said advertisement shall be published for at least ten days in three daily newspapers of general circulation published in said city and county, one of which shall be the official newspaper, and shall specify each article and the estimated amount thereof, that may be required during the period of the contract, and shall require bidders to state the price at which each article will be furnished, as the same may be required from time to time during said period, and the amount of the bond that will be required as security for the performance of the said contract, and the contract shall be awarded and entered into, in the manner provided in this Chapter for other contracts.

SEC. 5. Every officer, clerk, deputy or employee in any Office or Department in said city and county, shall, on the first Monday of each month, make a requisition in duplicate upon the Clerk of the Common Council for such stationery as he may estimate will be required by him or in his office during the current month; *provided*, that any such requisition made by any deputy or other subordinate, shall be countersigned by his principal or the head of the Department in which he is employed; and every requisition shall specify in detail the articles, and the quantity of each, which is required. The Clerk of the Common Council shall file in his office one of said duplicate requisitions, and shall indorse upon the other an order upon the person with whom the contract for furnishing said articles was entered into, and upon the presentation of said requisition and order to such contractor, he shall deliver to the person in whose favor the order was given, the articles enumerated therein, and shall take his receipt therefor.

The person with whom said contract was made shall present said requisition and order, with said receipt of the person to whom the said articles were delivered, to the said Clerk, and the Clerk shall compare the same with the duplicate on file in his office, and if found correct shall so certify thereon, and thereupon the said demand shall be audited and paid; and no claim for any article furnished under said contract

shall be allowed or paid except upon such requisition, order and receipt.

The Clerk of the Common Council shall keep an account in ledger form which shall at all times show the amount of stationery furnished to each officer, clerk and department, the dates of furnishing, and the value thereof according to said contract.

SEC. 6. No Department, Officer or employee of said city and county, except of the School Department, shall make any purchase of any material, or enter into a contract for the purchase of any material, or create any liability or obligation against the city and county, until the same has been authorized by the Common Council, by ordinance.

SEC. 7. Any member, officer, or employee of said city and county, or of any Department thereof, who shall willfully aid or assist a bidder in securing the award of a contract to furnish labor, material, or supplies, at a higher price or rate than any other bidder proposed, when sealed proposals have been advertised for, or who shall, in any way, favor one bidder for a contract over another by giving or withholding information contrary to his duties, or shall willfully mislead any bidder in regard to the character of the material or supplies called for, or who shall willfully or carelessly accept material or supplies of a quality inferior to that called for by the contract, or who shall willfully and knowingly certify to a greater amount of labor performed, or who shall willfully or carelessly certify to the receipt of a greater amount or different kind of material or supplies than has been actually received, shall be guilty of a misdemeanor.

SEC. 8. Where any particular piece of work is necessary, or any supplies needful for any particular purpose, it shall not be lawful to divide the same for the purpose of evading any of the provisions of this Charter. Where a claim against the Treasury amounts to more than one hundred dollars, it shall not be lawful to divide or break up the same into several sums of less than that amount, so as to evade the provisions of this Chapter concerning claims; and in case of such subdivision, payment of any one subdivision thereof, shall operate as an extinguishment of the entire claim.

SEC. 9. All contracts relating to city and county affairs shall be in writing, executed in the name of the city and county, by the officer authorized to make the same, and in cases not otherwise directed by this Charter or by law, such contract shall be made and entered into by the Mayor, and in no case by either Board of the Common Council, or by any committee of either. All contracts

shall be countersigned by the Auditor and registered by number and date in his office in a book to be kept by him for that purpose. In all cases of letting contracts to bidders, where for any reason a contractor fails to execute the contract or perform the same, new bids shall be invited, opened and awarded for the unperformed portion of the same, as provided herein in the first instance, until a sufficient contract is executed and performed. In all cases where the Common Council have reason to believe that the prices bid are too high, or that bidders have combined together to prevent genuine bidding, or that for any reason the public interest will be subserved, they may reject any and all bids and cause the proposal to be re-advertised.

SEC. 10. It shall not be lawful for the Common Council of said city and county, or for any Committee, Officer, Board, or person having power to authorize or contract liabilities against the Treasury of said city and county, to authorize, allow, contract for, pay, or render payable, in the present or future, in any one month, any demand or demands against said Treasury, or any of the Funds thereof, which shall in the aggregate exceed one-twelfth part of the amount allowed by law at the time of such contract, authorization, allowance, payment or liability, to be expended within the fiscal year of which said month is a part, nor more than one-twelfth part of the amount estimated as necessary for the current fiscal year and apportioned to the Fund out of which the same is payable under the provisions of this Charter. If at the beginning of any month any money remains unexpended in any of the Special Funds set apart for maintaining the Municipal Government, and which might lawfully have been expended the preceding month, such unexpended sum or sums, except so much thereof as may be requisite to pay all valid unpaid claims upon such Fund, may be carried forward and expended by order of the Common Council in any succeeding month. All contracts, authorizations, allowances, payments, and liabilities to pay, made, or attempted to be made, in violation of the provisions of this section, shall be absolutely void, and shall never be the foundation or basis of a claim against the Treasury of said city and county; and all officers are charged with notice of the condition of the Treasury of said city and county, and of the extent of the claims against the same. All Aldermen and Assistant Aldermen, Boards and Officers of said city and county authorizing or aiding to authorize, or auditing or allowing any claim or demand, upon or against said Treasury, or any Fund thereof, in violation of any of the provisions of this section, shall be liable in

person and upon their several official bonds to the contractor damaged by such illegal authorization, to the extent of his loss by reason of the non-payment of his claim; and the Treasurer paying any claim authorized, allowed or audited in violation of the provisions of this section, shall be liable on his official bond to refund the same to the City and County Treasury.

SEC. 11. The limitations in this Charter contained upon the payment of money or the incurring of any debt or liability, shall not apply in case of any great public calamity or danger, such as an earthquake, conflagration, pestilence, epidemic, invasion, insurrection, or other great or unforeseen emergency; but in such cases, such limitations may be temporarily suspended as to any lawful contract, authorization or expenditure necessary to avert, mitigate or relieve against such evil; *provided*, that such expenditure, contract or authorization shall only be made by ordinance, passed by the unanimous vote of all members elected or appointed to said Common Council, and entered in the Journals of the Boards of Aldermen and Assistant Aldermen, respectively, and the character and effect of such emergency shall be recited in the ordinance authorizing such action, and such ordinance must be approved in writing by the Mayor, Auditor and Treasurer of said city and county.

## ARTICLE III.

### **Executive Department.**

#### CHAPTER I.

##### OF THE MAYOR.

SECTION 1. The Mayor shall be the chief executive officer of the city and county of San Francisco, and shall hold his office for the term of four years; he shall be at the time of his election at least thirty-five years of age, and shall have been a citizen, resident, and qualified voter of said city and county for five years next preceding. He shall receive a salary of six thousand dollars a year, and may appoint a clerk at a salary of twenty-four hundred dollars a year.

SEC. 2. It shall be the duty of the Mayor, vigilantly to observe the official conduct of all public officers of the city and county, and to take note of the fidelity and exactitude, or the want thereof, with which they execute their duties and obligations, especially in the collection, custody, administration and disbursement of the public funds and property; for which purpose the

books, records, and official papers of all Boards, Officers and magistrates of the city and county shall at all times be open to his inspection. He shall take special care to see that the books and records of all such officers are kept in legal and proper form; and any official defalcation, or willful neglect of duty, or official misconduct which he may discover or which shall have been reported to him, shall, at the earliest opportunity, be laid before the Common Council and before the Grand Jury, in order that the public interests shall be protected, and the officer in default be proceeded against according to law. He shall, from time to time, give the Common Council information relative to the state of the city and county, and shall recommend to their consideration such measures as he may deem expedient in the interests of the city and county. He shall take care that the laws of the State and the ordinances of the city and county are enforced. He shall have power and it shall be his duty to appoint a competent person or persons, expert in matters of book-keeping and accounts, to examine the books, records, condition and affairs of any Department, Board or Officer, whenever he shall deem it necessary, and enforce such examination. Any officer refusing to submit to such official examination, or purposely delaying or impeding the same, may be suspended from office by the Mayor, and removed by the Common Council. He shall have a general supervision over all the Departments and public institutions of the city and county; and it shall be his duty to see that they are honestly, economically and lawfully conducted. It shall be his duty to take all proper measures for the preservation of public order, and for the suppression of all riots and tumults, for which purpose he is authorized and empowered to use and command the police force of said city and county; and if such police force is insufficient, it shall be his duty to call upon the Governor, in the manner provided by law, for military aid, in order that such riots or tumults may be promptly and effectually suppressed.

SEC. 3. The Mayor shall see that all contracts and agreements with the city and county, are faithfully kept and performed; and to this end, he shall cause legal proceedings to be commenced and prosecuted against all persons or corporations failing to fulfill their agreements or contracts. It shall be the duty of every officer of said city and county, when it shall come to his knowledge that any contract with the city and county, or with any Officer or Department thereof, or relating to the business of any office whatever, has been or is about to be violated by the other contracting party, forthwith to report the fact to the Mayor; and a willful failure so to do shall be a sufficient cause for the removal of such officer. The Mayor shall give a certificate, on demand, to any officer giving

such information, that he has done so; which certificate shall be evidence in exoneration from a charge of neglect of such duty. The City and County Attorney shall prosecute all actions ordered by the Mayor, in accordance with the provisions of this section.

SEC. 4. The Mayor, by and with the advice and consent of the Board of Aldermen, shall appoint all officers of the city and county, whose election or appointment is not otherwise specially provided for in this Charter or by law. When a nomination is made to the Board of Aldermen it shall take action thereon within fifteen days; and in case the officer appointed is not confirmed, the Mayor shall within ten days thereafter, in like manner appoint another, and may continue doing so until the place is filled. Neither the Common Council nor either Board thereof shall ever appoint any officer, clerk or employee, to any place in the city and county government, except the officers and clerks of their respective Boards, and except to fill a vacancy in the office of Mayor.

SEC. 5. Any Officer of said city and county, not including the members of the Common Council, may be suspended by the Mayor for alleged malfeasance in office or willful failure to discharge his official duty. In the order of suspension the Mayor shall specify in writing the facts constituting the alleged offense for which the officer is suspended and he shall immediately call a special session of the Board of Aldermen for the purpose of hearing and determining the charges. The Mayor shall at said session present to said Board the charges against said suspended officer, in writing; and shall also furnish a copy of the same to said officer; and the said officer shall have the right to appear with counsel before said Board for his defense. If upon the hearing it shall appear that such officer has been guilty of malfeasance in office or has willfully failed to discharge his official duty, then such suspended officer may be removed from office, by resolution adopted by a vote of a majority of the members elected or appointed to said Board, but if it shall not so appear, he shall be immediately reinstated. In case of suspension the Mayor shall temporarily fill the vacancy.

SEC. 6. Whenever a vacancy occurs in either Board of the Common Council, the Mayor shall fill the same by appointment, and the person so appointed shall hold office until the next municipal election, when the vacancy shall be filled by election, for the unexpired term. Whenever a vacancy occurs in any other of the elective offices of said city and county, and provision is not otherwise made in this Charter or by law, for filling the same, the Mayor, by and with the advice and consent of the Board of Aldermen, shall appoint a suitable person to fill said vacancy, who shall

hold office until the next municipal election, when such vacancy shall be filled for the unexpired term.

SEC. 7. Whenever any citizen shall furnish to the Mayor, information in writing, under oath, to the effect that he has cause to believe, and does believe, that any deputy, clerk, or employee under any officer, or in any Department of the city and county government, is incompetent or inefficient, or that there are more deputies, clerks, or employees under any officer, or in any Department, than the work to be performed requires, it shall be the duty of the Mayor at once to investigate the matter, and if he finds the charge to be true, he shall report the same to the Board of Aldermen, who shall investigate the charges, after notice to such deputy, clerk or employee, and his principal, or the head of the Department, and if the Board find the charge to be true, it shall remove, or cause to be removed, such incompetent or inefficient or unnecessary deputy, clerk or employee.

SEC. 8. The Mayor may call special sessions of the Common Council, and shall specially communicate to them, in writing, when assembled, the objects for which they have been convened, and their action at such sessions shall be confined to such objects.

SEC. 9. Whenever, and so long as the Mayor, from any cause, is temporarily unable to perform his official duties, the presiding officer of the Board of Aldermen shall act as Mayor *pro tempore*, and shall perform such duties. Whenever a vacancy occurs in the office of Mayor, it shall be filled by an election held by the Common Council assembled in Joint Convention for that purpose.

SEC. 10. The Mayor shall not, during the term for which he shall have been elected, be eligible for, or hold any other office, or be a member of any Board or Commission connected with the Federal, State, or city and county government; nor shall he ever receive, for any cause or reason, any other or greater compensation than the salary allowed him by this Charter.

## CHAPTER II.

### OF THE AUDITOR.

SECTION 1. The Auditor shall be the head of the Finance Department of said city and county, and is required to be constantly acquainted with the exact condition of the Treasury, and every lawful demand upon it. He shall keep a public office, and give his personal attendance there daily during the office hours fixed in this Charter, and shall not hold any other office, nor

engage in any other occupation or calling, while he holds the office of Auditor. He shall be the general accountant of said city and county, and it shall be his duty to receive and preserve in his office, all accounts, books, vouchers, documents and papers relating to the accounts and contracts of said city and county, its debts, revenues, and other fiscal affairs.

SEC 2. He shall adopt a proper mode and manner of double entry bookkeeping, and keep the accounts of said city and county, general and special, in a systematic and orderly manner. He shall keep an account of all money paid into and out of the Treasury, and it shall never be in the power of the Common Council, or of any Board, Commission or officer to authorize or direct the payment of any money out of the Treasury, upon any pretext whatever, except upon demands duly audited and allowed by the Auditor ; and any ordinance or law providing for the payment of money out of the treasury of said city and county, or any Fund thereof, whether such money be public funds, or private funds deposited therein, shall always be construed as requiring the auditing thereof by the Auditor before the same can be paid.

SEC. 3. He shall number and keep a record of all demands on the Treasury audited by him, showing the number, date, amount, name of the original and present holder, on what account allowed, out of what Fund payable, and if previously approved or allowed, by what officer or Board it has been so approved or allowed; and it shall be a misdemeanor in office for the Auditor to deliver any demand with his approval indorsed thereon until this requirement shall have been complied with.

SEC. 4. He shall have power to administer oaths and affirmations in matters pertaining to his Department, and shall require settlements of accounts to be verified by affidavit.

SEC. 5. He shall receive a salary of four thousand dollars a year, and may appoint a deputy whose salary shall be twenty-four hundred dollars a year.

SEC. 6. It shall be the duty of the Auditor to keep in his office, a list of all persons receiving salaries or wages from the city and county of San Francisco, with the amount of monthly salary or wages received by each, opposite his name, which list shall be, by said Auditor, revised and corrected monthly, and shall at all times be open to public inspection.

SEC. 7. The term "Audited," as used in this Charter with reference to demands upon the Treasury, is to be understood as meaning that the demand or claim has been pre-

sented to and passed upon by every officer, Board of officers and Committee having control thereof, and finally allowed, as required by law or this Charter, and this must appear upon the face of the paper representing the demand, or else it is not "audited."

SEC. 8. No demand upon the Treasury shall be allowed by the Auditor in favor of any person, officer, company or corporation, in any manner indebted to the city and county, without first deducting the amount of such indebtedness; nor to any person or officer having the collection, custody, or disbursement of public funds, unless his account has been duly presented, passed, approved, and allowed, as required in this Charter; nor in favor of any officer who shall have neglected to make his official returns or his reports, in writing, in the manner and at the time required by law or by this Charter, or by ordinance, or by the regulations established by the Common Council; nor to any officer who shall have neglected or refused to comply with any of the provisions of this Charter, or any law regulating the duties of such officer; nor in favor of any officer for the time he shall have absented himself, without lawful cause, from the duties of his office, during the office hours prescribed in this Charter; and the Auditor may examine on oath any officer, receiving a salary, touching such absence.

### CHAPTER III.

#### OF THE TREASURER.

SECTION 1. The Treasurer of said city and county shall receive and safely keep in a secure fire-proof vault, to be prepared for that purpose, all moneys belonging to, or which shall be paid into the Treasury, and shall not loan, exchange, use, or deposit the same, or any part thereof, to or with any bank, banker or person, nor pay out any part of said moneys except upon demands authorized by this Charter, and after they shall have been duly audited. He shall keep the key of said vault, and not suffer the same to be opened except in his presence. At the closing up of the vault each day, he shall take an account and enter into the proper book the exact amount of money on hand, and at the end of every month he shall make and publish a statement of all receipts into and payments from the Treasury, and on what account. If he violate any of the provisions of this section he shall be considered a defaulter, and shall be guilty of a misdemeanor in office and liable to removal. If he loan, exchange, or deposit said moneys, or any part thereof, contrary to the provisions

of this section, or apply the same to his own use, or to the use of any other person in any manner whatsoever, or suffer the same to go out of his personal custody, except in payment of audited demands upon the Treasury, he shall be guilty of a felony.

SEC. 2. The salary of the Treasurer shall be four thousand dollars a year. He may appoint one chief deputy at a salary of twenty-four hundred dollars a year, and one deputy at a salary of eighteen hundred dollars a year; and when necessary, such other deputies as may be authorized by the Common Council at salaries of nine hundred dollars each a year.

## CHAPTER IV.

### OF THE TAX COLLECTOR.

SECTION 1. The Tax Collector, upon the final settlement to be made by him as such Tax Collector according to the requirements of the law, or of this Charter, or of any ordinance of the city and county, shall be charged with and shall pay into the Treasury the full amount of all taxes, assessments and all moneys received by him under protest, or otherwise by him collected and not previously paid over, without any deduction of commissions, fees, or otherwise; he shall also be charged with and deemed debtor to the city and county for the full amount of all taxes due upon the delinquent tax list delivered to him or collection, unless it be made to appear that it was out of his power to collect the same by levy and sale of any property liable to be seized and sold therefor.

SEC. 2. In default of the payment of taxes or assessments before the time when the Tax Collector may be authorized by law to seize and sell the property therefor, the Tax Collector shall proceed to collect the same, together with the legal fees and per centages, by seizure and sale of the property liable in the mode prescribed by law for the collection of State and county taxes.

SEC. 3. The salary of the Tax Collector shall be four thousand dollars a year. He may appoint two deputies at a salary each of eighteen hundred dollars a year, and such other necessary deputies and assistants as the Common Council may authorize, at salaries of nine hundred dollars each a year.

## CHAPTER V.

## OF THE COLLECTOR OF LICENSES.

SECTION 1. There shall be appointed one Collector of Licenses for said city and county, who shall hold office for two years. He shall collect all State and city and county licenses required by law or ordinance to be collected within the limits of said city and county, or which shall hereafter be required to be collected by him by ordinance of the city and county.

SEC. 2. It shall be the duty of the said Collector and his deputies to attend to the collection of licenses, and examine all the places of business and persons liable to pay licenses, and to see that licenses are taken out and paid for. They shall each have and exercise, in the performance of their official duties, the same powers as Police officers in serving process or summons, and in making arrests; and shall also have and exercise the power to administer such oaths and affirmations as may be necessary in the discharge and exercise of their official duties; and in the discharge of said duties, to demand the exhibition of license for the current time from any person, firm, or corporation, engaged or employed in the transaction of any business for which a license is required; and if such person, firm, or corporation, or either of them shall refuse, or neglect to exhibit such license, he shall be guilty of a misdemeanor.

SEC. 3. The Auditor of said city and county is hereby authorized and required to deliver, from time to time, to the Collector of Licenses as many city and county licenses as may be required; also, to deliver from time to time to said Collector of Licenses, for collection, such State and county licenses as may be required, and such as he shall have received from the Controller of State, and to sign the same and charge them to the Collector of Licenses receiving them, specifying in the charge the amounts thereof named in such licenses respectively, and the class of licenses, taking receipts therefor; and said Collector shall collect the same, signing the same in lieu of the City and County Treasurer; and all the licenses so signed by the License Collector shall be as valid as if signed by the Treasurer. The Collector shall daily pay to said Treasurer all moneys so collected for licenses sold or by him received as fees; and shall at least once in every month, and oftener when required so to do by the Auditor, make to the Auditor a report under oath, of all such licenses sold and on hand, and of all amounts paid to said Treasurer, in the manner and upon the conditions which may be prescribed by the Common Council, and

shall at the time of making such report exhibit to the Auditor, all licenses in his hands, and the Treasurer's receipts for all moneys paid into the Treasury.

SEC. 4. The salary of the Collector of Licenses shall be twenty-four hundred dollars a year. He may appoint one chief deputy at a salary of fifteen hundred dollars a year, and an assistant deputy at a salary of twelve hundred dollars a year. He may appoint such assistant deputies as the Common Council may authorize, at salaries of nine hundred dollars, each, a year; *provided*, that the entire expenses of the Office of the Collector of Licenses for salaries and compensation of all officers and employees connected therewith shall not in any one year exceed the sum of twelve thousand dollars.

## CHAPTER VI.

### OF THE ASSESSOR.

SECTION 1. There shall be elected by the qualified voters of said city and county at the first general State election after the approval of this Charter by the Legislature, and every four years thereafter, an Assessor, who shall take office on the first Monday after the first day of January next following his election, and shall hold office for the term of four years, and until his successor is elected and qualified. It shall be his duty to assess all taxable property within said city and county, according to law.

SEC. 2. The salary of the Assessor shall be four thousand dollars a year. He may appoint one chief office deputy, one chief field deputy, and one head draughtsman, each of whom shall receive a salary of twenty-one hundred dollars a year; also, an assistant draughtsman at a salary of eighteen hundred dollars a year; and eleven office deputies, each of whom shall receive a salary of twelve hundred dollars a year. He may also appoint such additional deputies as may be allowed by the Common Council, at a salary of ninety dollars, per month, each, for such time as they may be actually employed.

## CHAPTER VII.

### OF THE RECORDER.

SECTION 1. The Recorder of said city and county shall have the custody of all books, records, maps and papers deposited in his office, and upon demand and payment of the fees prescribed therefor by law or by ordinance of said city and county, shall

furnish to any one applying therefor, a copy of any such book, record, map or paper, certified under his hand and seal of office. He or his chief deputy, when any papers are presented for registration, or to be recorded, shall write on the margin of each paper so presented, the number of folios paid for. The Recorder in his monthly return to the Treasurer, shall certify under oath, the name of each copyist in his office, and the number of folios copied by each of them, and such certificate of the Recorder shall be sufficient evidence to authorize the Auditor to audit such certified accounts.

SEC. 2. The salary of the Recorder shall be three thousand dollars a year. He may appoint one chief deputy, and one assistant deputy at a salary of eighteen hundred dollars a year, each ; also, as many copyists as may be necessary to perform the duties of his office, who shall be paid at the rate of eight cents per folio of one hundred words, for all matter recorded or copied by them respectively.

## ARTICLE IV.

### **Legal Department.**

#### CHAPTER I.

##### OF THE SUPERIOR COURT JUDGES.

SECTION 1. The Superior Court Judges in and for said city and county, hereafter to be elected, shall each receive a salary of five thousand dollars per annum.

SEC. 2. The Superior Court Judges shall have power to appoint, not exceeding three, interpreters of foreign languages for the Criminal Courts of said city and county, each of whom shall receive a salary of one hundred and twenty-five dollars per month.

#### CHAPTER II.

##### OF THE CITY AND COUNTY ATTORNEY.

SECTION 1. There shall be appointed by the Mayor, by and with the advice and consent of the Board of Aldermen, one attorney and counselor for said city and county who shall be styled City and County Attorney. He shall be learned in the law, be a practicing attorney of the Supreme Court of this State, and shall have been in the active practice of his profession for at least ten years, five of which

shall have been in the City and County of San Francisco. He shall hold his office for four years, and shall be paid a salary of five thousand dollars a year.

SEC. 2. The City and County Attorney shall bring and prosecute all civil suits and actions at law and in equity, and all special proceedings, which may be directed by the Mayor, Common Council, or any Department or Board of said City and County, and shall defend all actions and proceedings, to which the city and county is a party, and all other actions and proceedings in which the rights or interests of the city and county are involved.

He shall give legal advice to the Common Council, and such legal advice and assistance, as counsel or attorney, in or out of Court, to all the Boards and Departments of the government of the city and county, as may be required in writing by such Board or Department, and to any officer of said city and county, when directed so to do by the Common Council, and shall perform such other duties appertaining to his office, as the Common Council shall from time to time prescribe.

SEC. 3. He shall keep in his office, well bound books of record and registry, in which shall be entered and kept a register of all actions, suits and proceedings in his charge, in which the city and county is interested, and in which books shall also be recorded, all official written communications by him to any officer or Department of the government of said city and county, and all opinions given by him.

SEC. 4. Each outgoing City and County Attorney shall deliver such books, and other records, law reports, documents, papers, statutes, furniture and property in his possession belonging to his office or to said city and county, to his successor in office, who shall give him duplicate receipts therefor, one of which he shall file with the Auditor.

SEC. 5. The City and County Attorney shall appoint one assistant, who shall be paid a salary, of two hundred and fifty dollars per month; one chief clerk, who shall be paid a salary of one hundred and fifty dollars per month, each of whom shall be an attorney of the Supreme Court of this State; one law clerk who shall be paid a salary of one hundred dollars per month; one office clerk who shall be paid a salary of seventy-five dollars per month, and one messenger who shall be paid a salary of fifty dollars per month.

### CHAPTER III.

#### OF THE DISTRICT ATTORNEY.

SECTION 1. The District Attorney is the public prosecutor. He shall be an attorney of the Supreme Court of this State, and shall have been in the active practice of his profession for at least ten years, five of which shall have been in the City and County of San Francisco. He shall receive a salary of five thousand dollars a year.

SEC. 2. The District Attorney shall attend the Superior Court of this State, in and for said city and county, and such other Courts as are, or may be established therein, excepting the Police Court, and conduct in said Courts on behalf of the people, all prosecutions for public offenses. He shall perform such other duties as are or may be prescribed by law. He may attend personally in said Police Court whenever business of importance shall require his attendance and take charge thereof or assist the Assistant Prosecuting District Attorney.

SEC. 3. The District Attorney may, by written certificate signed by himself, and filed in the County Clerk's office, appoint two Assistant District Attorneys, and at his pleasure remove them, or either one of them, each of whom shall be an attorney of the Supreme Court of this State, and have been in active practice of their profession for at least five years. Each of said Assistant District Attorneys during the time they are acting as such assistants, shall receive a salary of two hundred and fifty dollars per month. It shall be the duty of each of such Assistant District Attorneys to assist the District Attorney in the performance of his official duties, and to do and perform such other duties in the prosecution of criminal actions in any of the Courts of said city and county as the said District Attorney may order or direct. The District Attorney may appoint two Clerks to hold office during his pleasure, each of whom shall receive a salary of one hundred dollars per month.

### CHAPTER IV.

#### OF THE PUBLIC ADMINISTRATOR.

SECTION 1. The Public Administrator of said city and county shall be appointed by the Presiding Judge of the Superior Court of said city and county, and confirmed by a majority of the Judges thereof. He shall be an officer of said Court, and subject to its orders, and shall be a practicing attorney of the Supreme Court of this State. He shall perform all the duties prescribed by law for public administrators. He shall hold office during the pleasure of said

Court, and upon retiring from office shall deliver all estates, business, property, and assets of estates, and records of office, to his successor.

SEC. 2. All fees, commissions and emoluments allowed by law to the Public Administrator in the administration of the estates of deceased persons, shall be, by him, collected and paid immediately into the Treasury of said city and county, and he shall render account thereof to said Court, and also monthly to the Auditor of said city and county.

SEC. 3. The Public Administrator shall be allowed, in full for all services, an annual salary of twenty-four hundred dollars in lieu of all commissions and emoluments. He may be allowed by the Court an additional compensation to his own use, not exceeding twenty-five dollars out of each estate administered by him. He shall give an official bond in the sum of thirty thousand dollars, and shall give additional and special bonds in each case as may be prescribed by law, or directed by said Superior Court, and shall in all other respects conform to the laws regulating Public Administrators in this State.

SEC. 4. All moneys received by him belonging to any estate shall be by said Administrator immediately paid into the Treasury of the said city and county to the credit of the particular estate, and shall only be drawn out of said Treasury upon an order signed by a Superior Court Judge, and countersigned by the Clerk of the Superior Court and the Public Administrator, which order shall, before payment, be audited by the Auditor.

SEC. 5. He shall give his personal attention to the duties of his office in and out of Court, and shall not employ attorney or counsel in any matter at the expense of the estate represented, or of said city and county. In all difficult contested cases, or cases at law, or in equity, respecting any estate in his charge, he may make a verified petition to the Court, setting forth the facts and reasons why it is necessary that he should have the assistance of counsel, and the Court may in any such case assign counsel to aid the Public Administrator and shall fix his compensation, which shall in no event be a charge upon said city and county.

## CHAPTER V.

### OF THE COUNTY CLERK.

SECTION 1. The County Clerk of such city and county shall keep open his office, and all offices attached to the various Courts of which he is Clerk, within said city and county, for the transaction of business, every day in the year, except legal holidays, from eight o'clock in the forenoon to the hour of five

in the afternoon. He shall perform such duties as are or may be imposed on County Clerks by law, and shall receive a salary of four thousand dollars a year.

SEC. 2. He shall take charge of, and safely keep according to law, all books, papers and records which are or may be filed or deposited in his office, and of all the Courts of which he is Clerk; and he shall not allow any papers, files or records to leave his custody, except when required by the Judges of the Courts, to be used by them or any of them, or by a referee.

SEC. 3. No Judge or officer of any Court shall make any order for the delivery by the County Clerk of said city and county, of any papers, files or records in his custody; nor shall the Courts or Judges thereof have any power to make orders for the delivery of any certificate of incorporation, bond or other paper filed with the said County Clerk. When any of said papers are required for evidence or use in any of the Courts within said city and county, or before a referee therein, the County Clerk or his deputies shall produce the same, under subpoena or order of the Court, without fee or charge therefor.

SEC. 4. On the commencement in, or removal to the Superior Court of any civil action or proceeding, he shall collect from the plaintiff, or party instituting the proceedings, the sum of one dollar, and pay the same immediately into the Treasury of the city and county to the credit of the Treasurer of the Law Library of said city and county.

SEC. 5. He may appoint one chief deputy, whose salary shall be twenty-four hundred dollars a year. He may appoint twelve Register Clerks, whose salary shall be eighteen hundred dollars a year, and twelve Assistant Register Clerks, whose salary shall be twelve hundred dollars a year, and twelve Court-room Clerks at a salary of fifteen hundred dollars a year each.

SEC. 6. Such Court-room Clerks, when not in attendance on their respective Courts, shall do duty in the Clerk's office, in copying papers and records, and in comparing copies of papers and records, and shall perform such other service as may be required of them by the County Clerk.

SEC. 7. The County Clerk may, in his discretion, when the exigencies of his office shall require, employ such copyists as shall be necessary, not exceeding twenty-four, at a compensation of six cents for each folio of one hundred words for the matter copied or recorded by them respectively.

He shall certify under oath, monthly, on the demands of the copyists provided for in this section the name of each one of said copyists, and the number of folios copied or recorded by each, and such certificates shall be sufficient

evidence of the amount of work done by them respectively, to authorize the Auditor to audit such certified accounts.

SEC. 8. For copies of papers furnished and certified by him, he shall be entitled to charge ten cents for each one hundred words. For certifying papers to be copies, which copies are not prepared by him, he shall be entitled to charge one dollar, and also one dollar per hour for the time exceeding one hour necessarily occupied in comparing such copies. It shall be the duty of the said clerk to certify to all papers presented to him which are copies of any document, paper or record, or portion thereof in his custody.

## CHAPTER VI.

### OF THE JUSTICES' COURTS.

SECTION 1. There shall be elected by the qualified electors of said city and county at every general election held in said city and county, five Justices of the Peace, who shall hold their offices for the term of two years and until their successors are elected and qualified, who shall constitute the Justices' Court in and for said city and county. Any one of said Justices may hold Court, and there may be as many sessions of said Court, at the same time, as there are Justices thereof. The said Justices shall choose one of their number to be Presiding Justice, who may be removed and another appointed in his place by a vote of amajority of them; provided, that in case of the temporary absence or disability of the Presiding Justice, any one of the other Justices, to be designated by the Presiding Justice, may act as Presiding Justice during such absence or disability. Such Court shall always be open, non-judicial days excepted.

SEC. 2. The Justice's Court and the Justices thereof, in and for said city and county, shall have the powers and jurisdiction which are or may be prescribed and conferred by law upon Justices of the Peace and Justices' Courts in said city and county; *provided*, however, that they shall not have power to try or decide any public offenses whereof the Police Court of said city and county has the jurisdiction to try and determine. Until otherwise provided by law, or by ordinance of the city and county, the provisions of Articles I and III, Chapter V of Title 1 Part One of the Code of Civil Procedure, excepting Sections 85, 86, 97, 98, 111, 112 and 115 thereof, as the same are contained in an Act of the Legislature, entitled "An Act to amend Part One of the Code of Civil Procedure, and each and every Title, Chapter, Article and Section of said Part One, and substituting a new Part One to take the place thereof in said Code relating

to Courts of Justice and various officers connected therewith," approved April 1, 1880, are hereby made applicable to the Justices' Courts, and the Justices thereof in and for said city and county in like manner and to the same extent as if the same had been at length incorporated in and made a part of this Charter.

SEC. 3. The said Justices shall also appoint a Clerk of said Court, who shall be styled the "Justices' Clerk." Said Justices' Clerk shall take the constitutional oath of office, and give bond in the sum of ten thousand dollars for the faithful discharge of the duties of his office, and in the manner as is or may be required of other officers of said city and county. The Justices' Clerk shall have authority to appoint two Deputy Clerks, one of whom, to be designated by the Clerk, shall act as Janitor for the Court rooms and chambers, who shall hold office during the pleasure of said Clerk. Said Justices' Clerk and Deputies shall have authority to administer oaths and take and certify affidavits in any action, suit or proceeding in said Justices' Court.

SEC. 4. All actions, suits and proceedings, whereof Justices of the Peace and Justices' Courts in said city and county have exclusive jurisdiction, shall be commenced, entitled, and prosecuted in said Court.

SEC. 5. All records, registers, dockets, books, papers, causes, actions, judgments and proceedings lodged, deposited, or pending before the Justices' Court, or any Justice of said City and County, are transferred to the Justices' Court of said City and County herein provided for, which Court and the Justices thereof, shall have the same power and jurisdiction over them as if they had been in the first instance, lodged, deposited, filed, or commenced therein.

SEC. 6. The Justices of the Peace, and Justices' Clerk, and his deputies shall receive for their official services the following salaries, and no other or further compensation, out of the City and County Treasury, after being first allowed and audited as other similar demands are by law required to be allowed and audited: the Presiding Justice, twenty-five hundred dollars a year; the other Justices of the Peace, and the Justices' Clerk, each, twenty-four hundred dollars a year; to each deputy of the Justices' Clerk, twelve hundred dollars a year.

SEC. 7. The Justices' Court in said city and county, and the Justices thereof, when this Charter takes effect, shall be the Justices' Court and Justices thereof respectively, with all the powers and jurisdiction prescribed by law or by ordinance of said city and county, so far as the same are not inconsistent with the provisions of this Charter, and shall continue to act as such until their successors are elected and

qualified, at the first general election after this Charter shall take effect.

SEC. 8. The Justices' Court herein provided for is the same Justices' Court and the Justices thereof are the same Justices which are or were intended to be provided in and for said city and county by the Act of the Legislature which is referred to in the second section of this chapter. Nothing contained herein shall be construed to authorise the election of more than five Justices of the Peace for said city and county, nor to authorize the appointment by the Sheriff of any deputies other than those which he is authorized to appoint by the provisions of this Charter relating to the office of Sheriff.

## CHAPTER VII.

### OF THE POLICE COURT.

SECTION 1. The Police Court of said city and county shall have jurisdiction:

First—Of an action, proceeding or prosecution for the violation of any ordinance of said city and county.

Second—Of proceedings respecting vagrants and disorderly persons.

SEC. 2. The said Court shall have jurisdiction of the following public offenses, committed in said city and county:

First—Petit larceny; receiving stolen property, when the amount involved does not exceed fifty dollars.

Second—Assault and battery, not charged to have been committed upon a public officer in the discharge of his duties, or with intent to kill.

Third—Breaches of the peace, riots, affrays, committing willful injury to property, and all misdemeanors.

Fourth—Said Court or Judge shall have jurisdiction of proceedings for security to keep the peace; and also, throughout such city and county, the same powers and jurisdiction in other criminal actions, cases, prosecutions, and proceedings as are now or hereafter may be conferred by law upon Police or Justices' Courts.

Fifth—Said Court shall have jurisdiction to try all cases of misdemeanor arising under the provisions of Article IX, title VI, part IV of the Political Code.

The Police Court is not a Court of record.

SEC. 3. The Police Judge shall be elected at each general election held in said city and county, and shall hold his office for two years from the first Monday in January after his election. He shall receive a salary of four thousand dollars a year.

SEC. 4. The Judge of said Court shall have power to

hear cases for examination, and may commit and hold the offender to bail for trial in the Superior Court, and may try, condemn, or acquit, and carry his judgment into execution, as the case may require, according to law, and shall have power to issue warrants of arrest, subpoenas, and all other process necessary to the full and proper exercise of his power and jurisdiction. All fines imposed by the Police Judge, not exceeding twenty dollars, exclusive of costs, shall be final and without appeal.

SEC. 5. Said Court or Judge shall also have power to commit to the Home for the Care of the Inebriate, any person who may be convicted before him of habitual intemperance, for a term not exceeding six months, or until sooner released by the Board of Managers of such institution by a two-thirds vote of all the members of said Board.

SEC. 6. The said Court or Judge shall have power to commit all offenders duly convicted, under eighteen years of age to the Industrial School, of said city and county, in all cases where such commitment shall by said Court or Judge be deemed to be more suitable than the punishment otherwise provided by law, not to exceed six months. If upon any trial it shall appear that the person on trial is under fourteen years of age, and has done an act, which if done by a person of full age would warrant a conviction of the crime of misdemeanor charged, then, and in that case said Court or Judge shall have power to commit such child to the Industrial School. In either case said Court or Judge may sentence such person to be confined in the correctional department of said Industrial School, for any term not exceeding six months. Upon application of the Mayor or any member of the Common Council, or of any three citizens, charging that any child under eighteen years of age, lives an idle or dissolute life, that his parents are dead, or, if living, do from drunkenness or other vices or causes, neglect to provide any suitable employment, or exercise salutary control over such child, the said Court or Judge shall have power to examine the matter, and upon being satisfied of the truth of such charges, may sentence such child to the Industrial School; *provided*, that no person shall be so sentenced for a longer period than until he arrive at the age of eighteen years.

SEC. 7. In cases where, for any offence, the said Court or Judge is authorized to impose a fine, or imprisonment in the County Jail, or both, it may, instead, sentence the offender to be employed at labor on the public works, or in the House of Correction or work house, as the Common Council may prescribe, for a period of time equal to the term of imprisonment which might legally be imposed, and may, in case a fine is imposed, embrace as a part of the sentence, that in default of payment thereof, the offender shall be obliged to

labor on said works, at said House of Correction, or work house, or elsewhere, at the rate of one dollar a day, till the fine imposed is satisfied; *provided*, that no person under the age of twenty-one years or who is to be sentenced, on conviction for drunkenness or breach of the peace, shall be sentenced to labor upon the public works away from the House of Correction or workhouse.

SEC. 8. The said Judge and Court may punish contempts in the same manner and to the same extent as Superior Courts, and the laws concerning contempts applicable to Superior Courts shall be applicable to said Police Court and Judge.

SEC. 9. The Police Court shall have a Clerk, to be appointed by the Mayor, by and with the advice and consent of the Board of Aldermen, who shall hold his office during the pleasure of said Board. He shall keep a record of the proceedings of the Court, issue all process ordered by said Court, and shall render to the Auditor, monthly, and before any amount can be paid to him on account of his salary, an exact and detailed account, upon oath, of all fines imposed, and all bail forfeited, and moneys collected since his last account rendered.

SEC. 10. He shall prepare bonds, justify and accept bail, when the amount has been fixed by the Police Judge, in cases not exceeding one thousand dollars, and he shall fix, justify and accept bail after arrest, in the absence of the Police Judge, in all cases not amounting to a felony, in the same manner and with the like effect as if the same had been fixed by the Police Judge or Police Court.

SEC. 11. The Clerk of said Court shall have power to appoint a Deputy Clerk, who shall hold office during the pleasure of the Clerk.

SEC. 12. The Clerk and Deputy Clerk shall have authority to administer oaths and affirmations, and take and certify affidavits in any proceeding in said Police Court in and for said city and county.

SEC. 13. The Police Judge and the Clerk and Deputy Clerk shall attend at the Court room of said Court for the dispatch of business daily, from the hour of eight o'clock A. M. until five o'clock P. M., and during such other reasonable hours as may be necessary for the discharge of their respective duties, except on legal holidays.

SEC. 14. The Clerk of said Court shall receive a salary, of one hundred and fifty dollars per month, and the Deputy Clerk, a salary of one hundred dollars per month.

SEC. 15. The said Clerk shall take the constitutional oath of office, and shall give a bond in the sum of five thousand dollars, conditioned for the faithful performance of the duties of his office, and in the same form as is or may be required

of other officers of said city and county. Such bond shall also be conditioned for the payment to the Treasurer of said city and county of all fines and moneys collected by him.

SEC. 16. The Clerk of the Police Court shall pay to the Treasurer of said city and county, immediately, all fines collected, and bail forfeited, accompanied by a verified written statement, showing from whom each fine was collected, when collected, in what case, specifying the offense, and in what amount, and in what case and by whom such bail was forfeited.

SEC. 17. The Mayor shall, by and with the advice and consent of the Board of Aldermen, appoint, an Assistant Prosecuting District Attorney, who shall hold his office for two years from the time of his appointment and until his successor shall have been appointed and qualified. He shall be the Prosecuting Attorney of the Police Court of said city and county, and shall receive a salary, for all services to be rendered by him, of two hundred and fifty dollars per month.

SEC. 18. The Assistant Prosecuting District Attorney may appoint a Clerk, who shall perform such duties as may be required of him by said Attorney, and who shall receive a salary of one hundred dollars per month.

SEC. 19. Any Justice of the Peace of the said city and county, who may be designated in writing by the Mayor for the purpose, shall have power to preside in, and hold the Police Court of said city and county, in the event of the temporary absence of the Police Judge, or of his inability to act from any cause; and during such temporary absence or disability, the Justice so designated shall act as Police Judge, and shall have and exercise all the powers, jurisdiction, and authority which are, or may be by law, conferred upon said Court or Judge.

SEC. 20. The Common Council may by ordinance provide for an additional Police Judge and Police Court, and all the provisions of this Chapter shall apply to such additional Police Judge and Police Court. Said Common Council may also by ordinance provide for a distribution of the business of said Courts.

SEC. 21. It shall be the duty of the Assistant Prosecuting District Attorney whenever he shall have been credibly informed that any person, criminally injured by another, is likely to die, to take the dying statement of such person, and to immediately reduce the same to writing. It is also hereby made the duty of attending physicians and others knowing of such cases, to report the same immediately to such Assistant Prosecuting District Attorney.

## CHAPTER VIII.

### OF THE SHERIFF.

**SECTION 1.** The Sheriff of said city and county shall attend in person, or by deputy, all the Courts in and for said city and county, except the Police Courts. He shall obey all lawful orders and directions of such Courts, and in all other respects conform to the laws regulating the office of Sheriff in this State.

**SEC. 2.** He shall receive a salary of five thousand dollars a year.

**SEC. 3.** He shall appoint one Under Sheriff, who shall receive a salary of twenty-four hundred dollars a year; one Book-keeper, who shall receive a salary of eighteen hundred dollars a year; twenty Deputies, each of whom shall receive a salary of twelve hundred dollars a year; twelve Deputies, each of whom shall receive a salary of nine hundred dollars a year, and one of whom shall act as Assistant Book-keeper; one Matron for the county jail, who shall receive a salary of six hundred dollars a year, and one driver of prison wagon, who shall drive and take care of the horses, and also the harness and the wagon known as the prison van, and who shall receive a salary of nine hundred dollars a year.

**SEC. 4.** It shall be the duty of the Sheriff to pay into the City and County Treasury immediately, all moneys collected and received by him, for fees and charges for the performance of any official duty, and to render monthly statements on oath to the Auditor, of all moneys collected or received by him, specifying therein from whom received, for what service, or on what account, and the amount and date of each item accounted for.

## CHAPTER IX.

### OF CORONERS.

**SECTION 1.** The Coroner shall observe and conform to and be governed by the law regulating the office of Coroner in this State. Before entering upon the duties of his office, he shall take the constitutional oath of office and give an official bond in the sum of ten thousand dollars.

**SEC. 2.** The Coroner is authorized to appoint two clerks, who shall be sworn to act as First and Second Deputy Coroners in all matters, except those duties on inquests which are or may be forbidden by law, to be delegated. The salary of the clerk sworn to act as First Deputy Coroner shall be one hundred and fifty dollars per month, and the salary of the clerk sworn to act as Second Deputy Coroner, shall be one hundred dollars per

month. The Coroner is authorized to appoint a Messenger, whose duty it shall be to have charge of the dead wagon, keep in order the morgue, and perform such other duties as are required by the Coroner or his deputies in connection with the duties of his office. He shall receive a salary of fifty dollars per month.

SEC. 3. The Common Council shall provide a suitable office and jury room, and dead house or morgue, with the furniture, lights and fuel necessary to enable the Coroner to efficiently discharge the duties of his office, and shall make the necessary appropriation therefor; and shall also allow and order paid for the expenses of maintaining the morgue and offices attached, such sum as may be necessary therefor.

SEC. 4. The Coroner shall receive no fees for any services rendered by him, but he shall in lieu thereof receive a salary of four thousand dollars per annum.

## ARTICLE V.

### **Department of Public Works.**

#### CHAPTER I.

##### OF THE BOARD OF PUBLIC WORKS.

SECTION 1. There is hereby established a Department of Public Works in the City and County of San Francisco, which shall be managed and controlled by a Board of Public Works, consisting of four Commissioners, who shall be appointed by the Mayor, by and with the advice and consent of the Board of Aldermen, each of whom shall possess the same qualifications for eligibility as are required of the Mayor, and shall hold office for the term of four years, and until their respective successors are appointed and qualified; *provided*, that the Commissioners first appointed shall immediately after their organization as a Board, so classify themselves by lot that one of their number shall go out of office at the expiration of each year from the date of their appointment. Such classification shall be entered upon the records of said Board, and a copy of said record, signed by the said Commissioners and the Secretary of said Board, shall be filed in the office of the Clerk of the Common Council.

SEC. 2. Each Commissioner, before entering upon the discharge of his duties shall enter into a bond with two or more sufficient sureties in the sum of ten thousand dollars, conditioned for the faithful discharge of his official duties, and that at the expiration of his office he

will surrender to said Department all property, books, papers and documents that may come into his possession as such Commissioner or member of said Board.

SEC. 3. Neither of said Commissioners shall, during his continuance in office, hold any other office or position under this city and county, or under the government of this State, or of the United States. Each of said Commissioners shall receive a salary of three thousand dollars a year.

SEC. 4. Immediately upon their appointment and qualification, the said Commissioners shall organize as a Board, and shall elect one of their number as President, who shall hold his office for the term of one year and until his successor is elected. The said Board shall also elect a Secretary, and may at its pleasure remove him. It shall also establish rules and regulations governing its own proceedings, and for the regulation and conduct of its officers and employees, and may require such bonds as it may deem adequate from said officers and employees for the faithful performance of their duties. Such bonds shall be given to the city and county, and shall be approved by at least three of said Commissioners, and shall be filed with the Auditor.

SEC. 5. The Board shall hold a regular meeting once in each week, and special meetings at such other times as it may appoint, or as may be provided by its rules. The regular meetings of the Board shall be held on a day which shall be fixed by a resolution entered upon its records, and which shall not be changed except by similar resolution, of which notice shall be published for two weeks. The meetings of the said Board shall be public. Three members shall constitute a quorum for the transaction of business, but no order or resolution shall be passed or business transacted except by a vote of three of said Commissioners. No business shall be transacted at a special or adjourned meeting of said Board except such as may by resolution have been made the special order of business for such meeting, or such as may have been under consideration at the meeting from which the adjournment is had.

The City and County Attorney shall give such advice and counsel to the Board as it may request in the performance of its duties.

SEC. 6. The Board shall cause to be kept a record of its proceedings, and shall keep and preserve copies of all contracts, receipts, plans, surveys, field notes, profiles, and of all papers properly belonging to the transactions of the Board. The Board may, whenever it shall deem it expedient, and shall, whenever requested by the Common Council,

or either Board thereof, furnish to said Council or Board such data or information as it may require, and it shall annually, on or before the First Monday of August make a report to the Common Council of all work done under its supervision, during the preceding fiscal year, together with a detailed statement of the same, and of the expenditures of the Department of Public Works; and the said Board shall at the same time furnish to the Common Council, and also to the Auditor, a detailed estimate of the amount of money that will be required for the expenditures of the Department of Public Works during the current fiscal year; and the Common Council shall, at the same time when other taxes are levied, levy a tax upon all the real and personal property in said city and county sufficient to raise such portion of said estimate as the said Council shall deem expedient to appropriate for such expenditures; *provided*; that the said Common Council shall not in any year levy or appropriate for such purposes a tax which shall exceed fifteen cents upon the one hundred dollars valuation of property subject to such tax.

SEC. 7. The Secretary of said Board shall keep full and complete minutes of all the transactions of the Board, specifying therein the names of the Commissioners present at its meetings, and giving the ayes and noes upon all votes. No order or resolution shall be valid or have any effect until the same has been recorded at length by the Secretary in the minutes of, and also approved by, the Board, together with the ayes and noes upon the vote by which it was adopted. The minutes and proceedings of the Board shall be open to the inspection of the public during office hours, when it does not interfere with the business of the Board. The Secretary shall cause the publication of all notices herein authorized to be published, or which the Board shall order to be published, and he shall do and perform such other duties as the Board may from time to time prescribe or direct.

Before entering upon the duties of his office he shall take and subscribe the constitutional oath of office and enter into a bond in such amount as the Board may fix, with two or more sufficient sureties to be approved by the President of the Board conditioned for the faithful discharge of his official duties. He shall receive a salary of one hundred and fifty dollars per month. He shall prepare and keep indexes of all work ordered or recommended by said Board and of all contracts and documents, and shall keep filed, indorsed and methodically registered and indexed all vouchers,

contracts, petitions and other papers which shall come into the custody of the Board.

The Board may appoint such Assistant Secretaries as may be necessary, provided that it shall not, without the consent of the Common Council, appoint more than two Assistant Secretaries.

The compensation of such Assistant Secretaries shall be one hundred dollars per month each.

The said Board shall also appoint one Assessment Clerk, who shall receive a salary of one hundred and fifty dollars per month; one Contract Clerk, who shall receive a salary of one hundred and twenty-five dollars per month; two Deputy Clerks, who shall receive a salary of one hundred dollars per month each; and three Street Inspectors, who shall receive a salary of seventy-five dollars per month each; and one Gardener for the public squares at a salary of seventy-five dollars per month.

SEC. 8. The Board shall also appoint a competent person who shall have had at least ten years active experience in the profession of civil engineering and surveying, and who shall have been a citizen of the United States and resident of the city and county for at least five years, as Civil Engineer for the Board, and may at its pleasure remove him. He shall be styled the City Engineer, and shall receive a salary of four thousand dollars a year. It shall be the duty of said Engineer to perform by himself or his assistants, all the civil engineering and surveying required in the prosecution of all the public works and improvements done under the direction and supervision of the Board, and to certify to the progress and completion of the same, and to do such other surveying as he may be directed by said Board, or by the Common Council. He shall possess the same power in the City and County of San Francisco in making surveys, plats and certificates as may be, from time to time, given by law to County Surveyors, and his official acts and all plats, surveys and certificates made by him shall have the same validity and be of the same force and effect as are, or may be given by law to those of County Surveyors.

SEC. 9. The Common Council shall, by ordinance, upon the recommendation of the Board of Public Works, establish such fees and charges as may be proper for the services to be performed by the City Engineer, and as are not inconsistent with the laws of the State, and may, upon like recommendation, from time to time, change and adjust the same, and it shall be the duty of the said Engineer to require such fee or charge to be paid in advance to the Secretary of the Board for any

official act or service that may be demanded of him. All fees and charges so collected shall be paid by the Secretary into the Treasury of the city and county. The Engineer shall take the constitutional oath of office, and enter into a bond in such form and amount as the Board may require. With the consent and approval of the Board, the City Engineer may appoint such deputies, not exceeding the number that may be fixed by the Common Council, as the duties of his office may require, and the said City Engineer shall be liable upon his bond, for the official misconduct or neglect of any of said deputies. The deputies so appointed shall receive such salaries or compensation as may be fixed by the Common Council upon the recommendation of the Board of Public Works, and they, or any of them, may be removed at pleasure by the City Engineer, or by the Board of Public Works.

The Board of Public Works may also, with the consent of the Common Council, expressed by ordinance, employ from time to time, such aids and assistants for the City Engineer as it may deem necessary for the performance of his duties. The compensation of such employees shall be fixed by the Common Council upon the recommendation of the Board of Public Works. All demands for salaries and compensation for the deputies, assistants and employees for the City Engineer, shall be certified to by the President and Secretary of the Board of Public Works, and shall thereupon be audited and paid out of the Street Department Fund.

SEC 10. The Board shall also appoint a competent person who shall have had at least ten years active experience in the profession of builder and architect, and shall have been a citizen and resident of the city and county for at least five years, as Architect, and may at its pleasure remove him. He shall be styled the City Architect and shall receive a salary of three thousand dollars a year. It shall be his duty, under the direction and control of said Board, to draw plans and specifications of the work to be done; to make necessary drawings for the same; to judge of and determine the quality and durability of the materials that may be furnished for the construction of any public building, and approve of or reject the same, and to take special care that all work be done in a good, substantial and workmanlike manner, and in accordance with the drawings, plans and specifications.

SEC. 11. The Board shall also appoint a Superintendent of Public Works who shall be a master builder, and shall have had at least ten years active experience as such, and

have been at least five years a citizen and resident of San Francisco, and may remove him at its pleasure.

It shall be the duty of the said Superintendent when any public building is in the course of construction, or when any materials to be used in its construction are being furnished, to be in attendance at said building and to see that the work is done in a good, substantial, and workmanlike manner, and that the material used or furnished is of the description, quality and quantity called for by the specifications and contract. All work upon public buildings under the control of said Board shall be done under the immediate supervision of said Superintendent, and all material used in the construction thereof shall be furnished under his immediate supervision. He shall also perform such other duties as shall be required of him by said Board of Public Works, and shall receive a salary of twenty-four hundred dollars a year. The said Architect and Superintendent shall each take and subscribe the constitutional oath of office, and shall each give a bond with two good and sufficient sureties in the sum of ten thousand dollars, to be approved by the Board of Public Works, conditioned for the faithful discharge of their respective duties. They shall each devote their whole time to the duties of their respective offices, and shall not be engaged in any other business or receive any salary or compensation for any other services.

After the completion of the New City Hall the offices of said Architect and Superintendent shall cease unless upon the recommendation of the Board of Public Works the Common Council shall by ordinance determine to continue the said offices; and in such case the said offices shall continue until abolished by the Common Council.

SEC. 12. The Board of Public Works shall take possession of, and have the custody and control of all the maps, surveys, field notes, records, plans, specifications, contracts, models, machinery, tools, appliances, contract rights, privileges, books, documents, papers, archives, and property belonging to the city and county heretofore kept by or in the office of the city and county Surveyor, or kept by or in the office of the Superintendent of Public Streets, Highways and Squares, or kept by or in the office of the Board of New City Hall Commissioners.

SEC. 13. The Board of Public Works shall have and take the special charge, superintendence and control, subject to such ordinances as the Common Council may from time to time adopt, of all streets, highways, roads, bridges, public places, public grounds and parks (except such parks and places:

as are entrusted to the management of the Park Commissioners), belonging to the said city and county, or dedicated to public use, and of the improvement and repairs thereof; of all sewers, drains, and cesspools, and the works pertaining thereto, or to the drainage of said city and county; of the cleaning of the streets; of all the public buildings belonging to the said city and county, except Public School houses, engine houses and hospitals; of the construction of all public buildings, and the making of all public improvements for said city and county, or under its authority, and of the repairs to such buildings or improvements; of the erection and construction of all engine houses that may be authorized by the Common Council, and of the repairs to the engine houses of the city and county; of the construction and erection of all hospitals, almshouses, jails, houses of correction or of detention that may be from time to time authorized by the Common Council; of all lamps and lights for the lighting of the streets, parks, public places and public buildings of said city and county, and of the erection and repair of all lamp posts for such lights and lamps; and of all the public works and improvements hereafter to be commenced by said city and county; and the said Board, and the members thereof, shall perform all the duties by this Charter prescribed for them, and such other duties relating to the matters so prescribed, as the Common Council may by ordinance direct, and all public work and improvements of the said city and county, except upon the parks and places intrusted to the management of the Park Commissioners, must be done by or under the supervision and control, and to the satisfaction and acceptance of the said Board of Public Works.

SEC. 14. All applications for establishing or changing the grade of any street or streets, the improvement of public grounds or buildings belonging to the city and county (except engine houses and school houses), the opening closing straightening, or widening any street, road or highway, or the laying out and opening of any new street through public or private property, and all public improvements which involve the necessity of taking private property or land for public uses, or where any part of the cost or expense thereof is to be assessed upon private property shall be made to the Board of Public Works, and shall not be ordered or authorized until after the Board shall have reported to the Common Council upon said application.

SEC. 15. The said Board shall have exclusive authority to prescribe rules and grant permits, in conformity with

the ordinances of the said city and county, for the moving of buildings through the streets of said city and county, and the building or placing of cellars and vaults under the streets or sidewalks, the construction of steps or other approaches to buildings upon the sidewalks, and of railings and fences enclosing areas upon the sidewalks; the laying down and construction of railroad tracks in the streets; the erection of telegraph poles and the construction of drains and sewers; the laying down or taking up of gas and water pipes, and sewers and drains, and to determine the location thereof; the using of the street or any portion thereof for the deposit of building material in front of a building during its erection or repair, or the use of the streets, or any portion thereof, for any purpose other than such as ordinarily and properly belongs to the public from the dedication thereof to public uses; and without such permission in writing from said Board no person shall do any of the acts in this section enumerated. Said Board shall also have full power to regulate and control, subject to the ordinances of the city and county, the manner of using the streets, sidewalks and public places of the city and county, and the removal of all obstructions therefrom; and to cause the prompt repair of the streets, sidewalks and public places when the same may be taken up or altered. And the said Board is hereby authorized to collect, by suit or otherwise, in the name of the city and county of San Francisco, the expense of such repairs from the person or persons by whom such street or sidewalk was injured or torn up.

## CHAPTER II.

### OF THE IMPROVEMENT OF STREETS.

**SECTION 1.** The cost and expense of all work or improvement done upon the streets under the order of the Common Council shall be borne and paid for as follows, viz.:

**First.—**The city and county shall pay out of the Street Department Fund, the cost and expense—

1. Of all work done on streets, crossings and intersections of streets that have been or may be accepted by the city and county, after the acceptance of the same, and of all urgent repairs that may be made upon the public streets and highways of said city and county as hereinafter provided.

2. Of all work done in front of, or that may be assessed to property belonging to or in the possession of the city and county, or any Department thereof.

3. Of all work done in front of, or that may be assessed to property belonging to or in the possession of the Government of the United States.

Second.—The cost and expense of all work done on that portion of the streets constituting or lying along the water front of the city and county, or bounded by said water front, shall be borne and paid by the Board of State Harbor Commissioners.

Third.—The cost and expense of all sewers, cesspools, manholes, culverts, and drains, and of all grading, planking, macadamizing, piling and capping any street, or portion thereof, and of constructing sidewalks and curbs thereon, when such work, or any portion thereof, shall be done for the first time, upon any street, or portion of a street, or such portion of said cost and expense as the Common Council shall by its ordinance deem to be just, shall be assessed upon the lands within the block or blocks adjacent thereto; *provided*, that whenever any street or portion of a street, not less than one block, or any entire crossing, shall have been paved with stone throughout the entire width of the roadway thereof, and curbs of stone and sidewalks shall have been constructed thereon, and shall have a brick sewer or ironstone pipe constructed or placed therein under such regulations as may have been adopted by the Board of Public Works, the same shall be accepted by the Common Council upon the recommendation of the Board, and thereafter shall be kept open and improved at the expense of the city and county; *and provided further*, that the Common Council may partially or conditionally accept any such street or portion thereof or any crossing, without a sewer or pipe therein if a sewer or pipe shall be deemed by said Board unnecessary, and the cost and expense of all work upon such accepted street shall be thereafter paid by the city and county; but, if at any time thereafter a sewer or pipe be constructed therein, the lands otherwise assessable therefor, shall not be exempt from assessment for the cost and expense thereof; *and provided, further*, that no assessment shall be levied upon any property, which, together with all assessments for street improvements that may have been levied upon the same property during the next preceding year, will amount to a sum greater than twenty-five per cent. of the value at which the said property was assessed upon the last preceding assessment roll of said city and county.

Sec. 2. Whenever an application shall be made to said Board for any work or improvement, the cost and expense of

which or any part thereof, is to be assessed upon private property, the Board shall proceed to investigate the same, and if it shall determine that such improvement is expedient, it shall so report to the Common Council, accompanied with specifications thereof and an estimate of the cost and expense thereof, and the Common Council shall not order any such improvement until the same has been recommended by the Board of Public Works. If an application is made for any work or improvement of which the cost and expense is to be paid by the city and county, and the said Board shall not approve of such application, it shall report to the Common Council its reasons for such disapproval, and the Common Council may then, after having obtained from said Board an estimate of the cost and expense of said work or improvement, by an ordinance passed by a vote of three-fourths of each Board, order the doing of said work, or the making of said public improvement. The Board of Public Works may also, except as hereinafter prohibited, recommend any improvement the cost and expense of which is to be paid by the city and county, though no application may have been made therefor, and make, with said recommendation, an estimate of the expense, to the Common Council, and in such case the Common Council may order the same to be done. The Common Council shall not order any improvement upon a street, until after an application therefor has been made to the Board of Public Works.

SEC. 3. Before recommending to the Common Council the ordering of any work or improvement, the cost and expense of which, or any part thereof, is to be assessed upon private property, the said Board shall pass a resolution of its intention to recommend the same, specifying the work to be recommended and giving an estimate of its cost and expense, and describing the district or territory within whose boundaries the property is to be assessed, and shall fix a day when it will take final action upon such resolution; *provided*, that the said Board shall not pass any resolution of intention to recommend any improvement which shall extend over more than one block or one crossing, and that no assessment for any improvement shall be made upon property outside of the block to which the work of the said improvement is adjacent, except that in case of crossings, the assessment may be upon property within the four blocks adjacent to the crossing upon which the work was done; *and provided*, *further*, that said Board shall not have power to recommend that any street, or portion of a street, be graded in the first instance, unless a petition shall have been pre-

sented to said Board verified by the owners of a majority of the frontage of the land fronting on said street, or their agents, stating that they are such owners and in possession thereof, and asking that said street or portion thereof be graded, *except*, that when a street has been graded to the official grade for one or more blocks upon each side of a block, the Board may recommend that such block be graded without any petition therefor, and *except also*, that when a street or portion thereof has been graded to the official grade to a point not more than two blocks in distance from the water front of said city and county, the Board may recommend that such intervening blocks be graded, without any petition therefor.

SEC. 4. Upon the passage of such resolution, and within ten days thereafter, the Secretary of said Board shall without any further authority, cause a copy of said resolution to be published for a period of ten days (Sundays and non-judicial days excepted). At any time within said period of ten days the owner or any person interested in any lot within said district may file with the Secretary of said Board his objection to the recommendation or ordering of said work or improvement, stating briefly the grounds of his objections, and if at any time within said period of ten days the owners of a majority of the frontage of the lands fronting on the street where said improvement is proposed shall file written objections to said improvement, the Board shall not recommend the ordering of said work or improvement, and shall not within six months thereafter pass any resolution of its intention to recommend the same, unless prior thereto, it shall receive a petition therefor signed by the owners of a majority of the frontage of the lands fronting upon said street. Upon the day fixed in its resolution of intention for final action thereon, or at its next regular meeting, the Board shall consider and pass upon the said objections. If the Board shall consider that the objections are sufficient it shall adopt a resolution to that effect, and shall not recommend the ordering of said work or improvement. If it shall consider that the said objections are not sufficient, or if no objections are filed, the Board may recommend the ordering of said work or improvement, and shall with its recommendation, transmit to the Common Council all objections to such recommendation that may have been filed.

SEC. 5. At the next regular meeting after receiving from the Board of Public Works its recommendation of such work, or at such time within thirty days thereafter to which the hearing thereof by either Board may be postponed,

the Common Council shall take action upon such recommendation, and if any objections to the ordering of said work have been transmitted with said recommendation, it shall consider and dispose of said objections before passing upon said recommendation. If either Board shall consider the objections, or any of them, sufficient, it shall so declare by resolution, and the Common Council shall not order the said work or improvement. If the Common Council shall consider that the objections are insufficient it shall so declare by resolution, and thereafter, or if no objections have been filed with the Board of Public Works, it may within thirty days pass an ordinance directing that the said work or improvement be done; and it shall specify in the said ordinance what amount of the cost and expense thereof shall be assessed upon the property to be affected thereby, and also the district upon which the said amount shall be assessed.

SEC. 6. Upon the passage of said ordinance the Clerk of the Common Council shall transmit a certified copy thereof to the Board of Public Works, and the said Board shall thereafter proceed to make an assessment of the amount specified in said ordinance upon the lots and lands within the said district—each lot being described sufficiently for identification and being separately assessed for its proportion of said amount, in proportion to the benefit received by it from the said work or improvement—and shall make and attach to said assessment a map or diagram of the district, showing the several lots assessed and their relative location. Each of the said lots shall be numbered upon the map, and a corresponding number shall be given to the description of the lots, and the amount of each assessment placed opposite thereto. After making said assessment the said Board shall cause a notice thereof to be published for five days, and to be delivered to an occupant of each of the lots assessed; (if any of said lots are unoccupied, said notice shall be posted in a conspicuous place upon said lot or lots,) which notice shall state the day and hour when the said Board will, at its office, take final action upon said assessment.

SEC. 7. At any time prior to the time fixed in the said notice, any person interested may present in writing and file with the said Board his objections to the said assessment, stating briefly wherein he deems the same erroneous. At the time specified in said notice, or at some day to which the hearing shall then be adjourned, the Board shall consider the said objections, and if it shall deem them well taken, it shall again assess the said amount upon the said lots and

lands as it shall deem to be in proportion to the benefits received from said work or improvement, and shall again cause a notice of its assessment to be published and delivered, or posted, as is required in making an assessment in the first instance, and the same proceedings may be taken until the said Board shall finally determine that the said assessment is just and correct. Upon such determination the said assessment shall be signed by the President and Secretary of said Board, and shall be final and conclusive as to all persons who have made no objections thereto.

SEC. 8. If any objections to the said assessment have been filed with said Board, the Secretary shall within five days after the same has been finally approved by the Board, transmit the said assessment and map with said objections to the Board of Aldermen, and the Board of Aldermen shall at its next regular meeting, not less than ten days from the receipt thereof, consider and determine the sufficiency of the said objections. If it shall determine that the said objections are well taken, it shall direct the Board of Public Works to modify or change the said assessment in the particulars wherein it is erroneous, and thereupon the same proceedings shall be had in making the assessment as in the first instance. If the Board of Aldermen shall determine that the objections to the assessment are not well taken, the Clerk of said Board shall certify such determination upon the said assessment, and return the said assessment so certified to the Board of Public Works, and thereupon the said assessment shall become final and conclusive. Whenever the said assessment shall become final and conclusive, it, together with the map of the lots assessed, shall be recorded in a Book of Assessments, to be kept in the office of the Board of Public Works for that purpose, and the record thereof shall thereupon be signed by the President and Secretary of said Board, and thereafter the assessment shall be a lien upon the respective lots assessed, until the same is canceled or discharged as herein provided.

SEC. 9. In making said assessment the Commissioners shall act as a Board, and the assessment shall be authenticated by the signatures of at least three of said Commissioners as "Commissioners of the Board of Public Works;" and every assessment so authenticated and recorded in the Book of Assessments shall be *prima facie* evidence of the correctness and regularity of all the proceedings of said Board and of the Common Council prior to the date of such record.

SEC. 10. Upon the recording of the said assessment the Pres-

ident and Secretary of the Board of Public Works shall sign a warrant for its collection, and thereupon the said assessment and map, with the warrant attached thereto, shall be delivered to the Tax Collector of the city and county for collection, and the said Tax Collector shall immediately give notice thereof by publication for thirty days. Said notice shall set forth in general terms the locality and character of the work or improvement for which the assessment is made, and shall notify all persons interested that a warrant for its collection has been given to said Tax Collector, and that unless payment is made within sixty days from the first publication of said notice the property so assessed will be sold to satisfy the said assessment.

SEC. 11. Whenever any assessment upon any of the lots delineated on said map shall be paid, the Tax Collector shall write the word "Paid," together with the date of payment opposite the number of said lot, upon said assessment, and shall give to the person paying the same, a receipt therefor, showing upon which lot, the said payment was made, and upon presentation of the said receipt to the Secretary of the Board of Public Works, he shall cancel the assessment against the said lot upon the record thereof. After the expiration of sixty days from the first publication of said notice, the Tax Collector shall make a report in writing to the Board of Public Works, of all lots or parcels of land in the said assessment on which the amounts assessed have not been paid, accompanied by his oath that the same is correct, and that no portion of the assessment therein named has been paid, and that he has given the notice, required by the preceding section, that the warrant for the collection of said assessment had been received by him and requiring payment of said assessment. Thereupon the Board of Public Works shall, by a resolution, direct the said Tax Collector to sell the said lots for the amount of said delinquent assessments. The report of the Tax Collector, verified as aforesaid, shall be *prima facie* evidence of the correctness of all the proceedings taken by him prior thereto.

SEC. 12. Upon the passage of the said resolution by the Board of Public Works, the assessment therein named shall be deemed to be delinquent, and thereupon the Tax Collector shall, after having published a notice for ten days, sell the lands upon which the said assessments are delinquent, and in making such sales shall be governed, so far as the same may be applicable, by the General Revenue Laws of the State, providing for the sale of lands for delinquent taxes. He shall add to the amount of each

assessment the cost of advertising said sale, and also the sum of one dollar for the certificate of sale to be issued by him. After making said sales the Tax Collector shall return the assessment and warrant with a report of his doings indorsed thereon, to the office of the Board of Public Works, and the Secretary of said Board shall note in the record of said Assessment, and opposite to the number of each lot sold, the fact of its sale by the Tax Collector, together with the date and the name of the purchaser.

SEC. 13. The General Revenue laws of the State in force at the time of said sale in reference to the sale of property for delinquent taxes, the execution of certificates of sale and deeds therefor, the force and effect of such sales and deeds, and all other provisions of said laws in relation to the enforcement and collection of taxes and redemption from tax sales except as herein otherwise provided, shall be applicable to the proceedings for the sale of lands for such delinquent assessments.

SEC. 14. If, at said sale, no person shall bid the amount of the said assessment, with the aforesaid cost and fee of one dollar, the Tax Collector shall bid in the said lot, for the amount of the assessment, and charges thereon, in the name of the City and County of San Francisco, and upon his filing a certificate of said sale with the Treasurer, the Treasurer shall transfer the amount of said assessment from the General Fund to the said Special Assessment Fund. Each assessment delivered to the Tax Collector shall be numbered, and the moneys received by him upon such assessment, shall be paid to the Treasurer who shall place the same to the credit of a special fund designated in accordance with the number of said assessment as "Special Assessment Fund No. ——" and upon the payment of the entire amount of any such special assessment, the Tax Collector shall so report to the Board of Public Works.

SEC. 15. Upon the passage of an ordinance for any street improvement, the expense of which is to be paid out of the City and County Treasury, and upon the receipt by the Board of Public Works of a report from the Tax Collector that the whole amount of any special assessment for any street improvement has been collected and paid in to the Treasury, the Board of Public Works shall cause the said improvement to be made, and a contract therefor shall be entered into in the manner herein provided.

SEC. 16. Before entering into any contract for said improvement the said Board shall cause a notice to be conspicuously posted in its office, and also to be published for ten

days, inviting sealed proposals for doing the work of said improvement according to the specifications reported with its recommendation, and stating the time within which the said work is to be performed, and the amount of the bond to be given by the contractor for the faithful performance of the contract; and also stating a day and hour when the Board will receive and open proposals therefor. All proposals shall be made upon printed forms to be prepared by the Board, and furnished gratuitously upon application, with a form for the affidavit hereinafter provided for, printed thereon. Each bid shall have the affidavit of the bidder thereon, duly verified by his oath, that such bid is genuine, and not collusive or sham; that he has not colluded, conspired, connived or agreed, directly or indirectly, with any other bidder or person to put in a sham bid, or that such other person shall refrain from bidding, or has in any manner sought by collusion to secure any advantage against the city and county, or any person interested in said improvement, for himself or any other person whomsoever. Making a false affidavit to a bid shall constitute his crime of perjury. Every bidder shall file with his bid a certificate of deposit or certified check on some solvent bank in the city and county, for such sum as the Board in its advertisement, or by general resolution, shall prescribe, payable to the order of the Secretary of said Board, which sum shall be forfeited to the city and county, and drawn by the Secretary and paid into the Treasury, if the bidder for any reason fail or refuse to comply with and make good his bid, in case the contract is awarded to him, by entering into and perfecting the same. Any bid without such certificate or check shall not be considered. All bids shall be clearly and distinctly written, without any erasure or interlineations, and if any bid shall have an erasure or an interlineation it shall not be received or considered by the Board. Any contract made in violation of any of the foregoing provisions shall be absolutely void, and never form the basis of or be a claim against the city and county.

SEC. 17. At the time named in the advertisement the Board shall assemble and remain in session for at least one hour, and all bids shall be delivered to the Board while it is in session, and within the hour named in the advertisement. No bids not so delivered to the Board shall be considered. Each bid as it shall be received shall be numbered and marked "Filed" by the President and authenticated by his signature. At the expiration of the hour stated in the advertisement within which the bids shall be received, the Board shall open the bids in the presence of the bidders present, and an abstract of

each bid shall be recorded in the minutes of the Board by the Secretary. Before adjourning, the Board shall compare the bids with the record made by the Secretary. An abstract of said bids, showing the name of each bidder, the price at which work, labor or material is offered by each, and such other things as may be necessary to show or explain the offer, shall thereupon be made by the Secretary and certified to the Common Council. Said bids shall remain in the office of the Secretary, and be open to the inspection of the public.

SEC. 18. At the next regular meeting of the Common Council after the expiration of five days from receiving the said abstract of the bids, the said Common Council shall consider the several bids and, shall by resolution award the contract for doing the work of said improvement, for which proposals were invited, to the lowest bidder; *provided*, that the said Common Council shall have the right to reject any and all bids when, in their judgment the public interests will be thereby promoted, and may also reject the bid of any party who has been delinquent or unfaithful in any former contract with said city and county; and if all such bids be rejected the Secretary of the Board of Public Works shall thereupon, unless ordered not to do so by the Common Council, again cause notice for bids to be advertised and posted as in the first instance.

SEC. 19. Upon the passage of said resolution of award the Clerk of the Common Council shall certify to the Board of Public Works a copy of the said resolution and the Secretary of said Board shall thereupon publish a notice of said award in the official newspaper for five days. If an assessment shall have been made for any portion of the work so awarded, at any time within ten days after the first publication of said notice of award the owners of a majority of the lands upon which said assessment has been made, estimating said majority by the amount paid upon said assessment, may elect to do said work and enter into a contract therefor; but if they shall not so elect, or if having entered into said contract, they shall not commence said work within ten days after entering into said contract, the Board of Public Works shall enter into a contract therefor with the person to whom the said contract was awarded.

SEC. 20. All contracts shall be in writing, and shall be drawn under the supervision of the City and County Attorney, and shall contain detailed specifications of the work to be done, the manner in which the same shall be executed, the quality of the material, and the time in which the same shall

be completed as was specified in the notice inviting proposals therefor. No change or modification in the plans or specifications shall be made after proposals for doing the work have been called for. Every contract entered into by the said Board shall be signed by the President and the Secretary of the Board, and by the other contracting party. All contracts shall be signed in triplicate, one copy of which, with the specifications of the work to be done, or the materials to be furnished, shall be filed with the Clerk of the Common Council, and shall at all times in office hours be open to the inspection of the public; one copy thereof, with the said specifications, shall be kept in the office of the Board, and the other copy with the said specifications, shall be delivered to the contractor. At the same time with the execution of said contract, the said contractor shall execute to the city and county, and deliver to the Secretary of said Board, a bond in the sum named in the notice for proposals, with two or more sufficient sureties for the faithful performance of said contract. No surety on any bond shall be taken unless he shall be a payer of taxes on real property, the assessed value of which is equal in amount to his liabilities on all bonds on which he may be security to said city and county, and each surety shall justify and make an affidavit (for which a form shall be printed upon said bond,) signed by him that he is assessed upon the last assessment roll of said city and county in his own name for real property in an amount greater than his liability on all bonds on which he is security to said city and county, and that the taxes on said property so assessed are not delinquent. Making a false affidavit as surety upon such bond, shall be deemed perjury. The contract shall specify the time at which the work shall be commenced, and within which it shall be completed, and upon the recommendation of the Board of Public Works, such time may be extended by the Common Council; but in no event shall the time for the performance of said contract be extended more than sixty days beyond the time originally fixed for its completion. In case of failure on the part of the contractor to complete his contract within the time fixed in the contractor within such extension of said time as is herein provided, his contract shall become and be void, and the Common Council shall not pay or allow to him any compensation for any part of the work done by him under said contract.

SEC. 21. If at any time it shall be found that the person to whom a contract has been awarded has colluded in presenting

any bid or bids, with any other party or parties, for the purpose of preventing any other bids being made, then the contract so awarded shall be null and void, and the said Board shall advertise for a new contract for the performance of said work. No person or firm shall be allowed to deposit or file or be interested in more than one bid for the same work. If more than one bid appear in which the same person is interested, on the opening of said bids, all such bids shall be rejected.

SEC. 22. If the person to whom the contract is awarded shall for ten days thereafter fail or neglect to enter into a contract therefor, and to commence work within ten days thereafter, the Secretary of the Board shall thereupon draw the money upon said check and pay it over to the Treasurer. If the said contractor or the property owners, after entering into the contract, fail to prosecute the same diligently or continuously, according to the judgment of the Board, or fail to complete it within the time prescribed in the contract, or within such extension of said time as may be granted, the Secretary shall, upon the direction of said Board, again advertise for bids for doing said work, as in the first instance, and the contract for doing or completing the said work shall be awarded as in the first instance, and no bid shall be received from any person who shall have failed to enter into any contract that may have been awarded to him, or to complete any contract entered into, and in case of failure on the part of property owners to complete any contract entered into by them, they shall not be allowed to enter into any other contract respecting said work.

SEC. 23. Whenever any contract shall have been completed to the satisfaction and acceptance of the Board of Public Works, the President of the Board shall deliver to the contractor a certificate to that effect, and shall also notify the Common Council that said work and improvement and the contract therefor have been satisfactorily performed, and that a certificate to that effect has been given to the contractor. Thereupon the Common Council shall, by resolution, direct the Treasurer to pay to the contractor out of the appropriate fund, the amount to which the said contractor is entitled under the terms of his contract.

SEC. 24. The Common Council shall, by ordinance, provide for making and hearing objections on the part of interested persons, to the sufficiency of the performance of said contract, or to the manner in which the work may have been performed, and for causing said work to be completed, and for delaying the payment for said work until after the hearing and determination upon said objections.

SEC. 25. If after the Treasurer has paid to the contractor the amount to which he is entitled under the terms of his contract, and has also paid all other costs and expenses of the said work or improvement, there shall remain to the credit of the Special Assessment Fund, out of which the said payments have been made, any surplus moneys, the Treasurer shall immediately report the amount of said remaining moneys to the Common Council, and thereupon the Common Council shall, by resolution, direct the Treasurer to distribute and pay such remaining moneys, in the proportion of the original assessments, to the persons by or for whom said original assessments were paid, or their assigns or personal representatives.

If, after any payments have been made upon any assessment, the said assessment shall be declared void, or if no contract for said work and improvement shall be entered into within one year after the said assessment shall have been collected, the Common Council shall, by resolution, direct the Treasurer to repay the moneys so paid, to the persons by or for whom said payments were made, or to their assigns or personal representatives.

SEC. 26. No ordinance for the improvement of any street shall be passed by the Common Council without extending the said improvement throughout the whole width of such street, nor unless the width and grade of said street have been officially established; *provided*, that the grade of all intermediate or intersecting streets in any one block shall be deemed to conform to the grades as established at the crossings of the main streets.

SEC. 27. No recourse shall be had against the city and county for damage to person or property suffered or sustained by, or by reason of the defective condition of any unaccepted street or public highway of said city and county, whether originally existing, or occasioned by construction, excavation or embankment, or want of repair of said street or highway, and whether such damage be occasioned by accident on said street or highway or by falling from or upon the same.

SEC. 28. Wherever in this Chapter the word "street" occurs, it shall be held to include all streets, lanes, alleys, places and courts, which have been dedicated and are open to public use, whose grade and width have been officially established, and all streets, lanes, alleys, places and courts which shall hereafter be dedicated and opened to public use and accepted by said city and county.

The word "improvement" shall be held to include grading,

paving, planking, macadamizing, piling, capping, and the construction of sewers, cess-pools, manholes, culverts, drains, sidewalks and curbs; *provided*, that no curbs shall be ordered except such as are constructed of stone, and that no wooden sewers shall be constructed except upon the water front of the city and county, and that no wooden sidewalks shall be laid or streets planked or paved with wood, within the fire limits of said city and county.

The word "block" shall mean the blocks as known or designated as such, upon the map and books of the Assessor of the said city and county.

The word "paved" shall include any pavement of stone, iron, wood or other materials which the Common Council may, by its ordinance, order to be used; *provided*, that no patented pavement shall be ordered during the existence of the patent therefor, until after the owner of such patent shall have transferred to the city and county, all right to the use of the same within said city and county, with the privilege to any person to manufacture and lay the same upon its streets, under any contract that may be awarded to him, or entered into by him, with said city and county.

The term "expense" shall include the price at which the contract was awarded, and all the expenses incurred in printing and advertising the work contracted for.

All notices and resolutions herein required to be published, shall be published daily, legal holidays excepted, in the official newspaper of said city and county.

All notices that are herein required to be served, whether by delivery, mailing or posting, may be so served by any male citizen of the age of twenty-one years, and the affidavit thereof, shall be *prima facie* evidence of such service. The affidavit by the publisher of the official newspaper, of the publication of any notice herein required to be published, shall be *prima facie* evidence of such publication.

SEC. 29. Whenever the owners of all of the lands, fronting upon any street, alley, place or court which is less than forty feet in width, for the entire distance of said street, alley, place or court, or for the distance of one or more entire blocks, shall petition the Board of Public Works that the said street, alley, place, or court, or that portion thereof upon which said lands front, be closed, the Board of Public Works is hereby authorized to pass a resolution recommending that the same be closed. Before passing such resolution the Board shall cause a notice of the application to be published, and shall fix a time and place at which it will consider the same, and hear objections thereto, and upon such hearing shall de-

termine whether it will recommend that the same be closed; and if it shall so determine, it shall transmit such recommendation to the Common Council, and thereupon the Common Council may pass an ordinance that the said street be closed, and the said street, alley, place or court shall, upon the passage of said ordinance, be, and be deemed to be closed, and shall not thereafter be or be deemed to be a public street, alley, place or court, or subject to any public expense or improvement; *provided*, that no such ordinance shall be passed until the said petitioners shall have paid all the expenses of said proceedings.

SEC. 30. In all cases where lands in said city and county shall be hereafter sub-divided and laid out into blocks or plots, sub-lots, streets and alleys, or whenever hereafter new streets or public grounds shall be laid out, opened, donated or granted to the public by any proprietor, the map or plat thereof shall be submitted to the Board of Public Works for its approval, and if the Board approve the same, such approval shall be by it indorsed upon the said map or plat, and said map with the said approval shall then be filed in the office of the County Recorder; and without such approval indorsed thereon no such map or plat shall be filed or recorded in the office of said Recorder, or have any validity; nor shall any street, alley or public ground become or be a public street or be subject to any public improvement or expense without such approval, indorsement and record; *provided*, that no street shall be approved or become a public street unless the same shall be at least forty feet in width and two hundred feet distant from any parallel street.

SEC. 31. The Board of Public Works shall annually invite proposals for cleaning such of the streets of the city and county as the said Board shall determine should be cleaned at the public expense. Before causing any notice for such proposals to be published the Board shall divide the city into such a number of sections as in its judgment, will best induce competition for bids, and secure the cleaning of the streets at the lowest cost. The Secretary of the Board shall, under its directions, on the first Monday in May of each year, cause to be published for a period of ten days, a notice inviting proposals for cleaning each of the aforesaid sections of the city and county, specifying in said notice the streets of each section which are to be cleaned, the number of times per week that they are to be cleaned, and the amount of security to be given with each contract. Bids shall be made for each section separately.

All the provisions of this Chapter in relation to the opening of bids, awarding of contracts and entering into and performance of contracts for improvement of streets shall be applicable to the proceedings for entering into contracts for cleaning streets of said city and county.

The Board may also, with the consent of the Common Council, expressed by ordinance purchase one or more machines for sweeping the streets, and may enter into a contract or contracts for sweeping the streets with said machines ; and the Common Council may upon the request of said Board, authorize prisoners who have been sentenced to labor upon the public works, to be employed in sweeping the streets of the city and county.

SEC. 32. The Board of Public Works shall cause to be made all urgent repairs upon the public streets that may from time to time be requisite for the public safety, and for that purpose may employ such laborers as may be necessary, and at such wages as may be from time to time fixed by the Common Council; *provided*, that whenever the cost and expense of the repairs upon any street or portion of a street shall exceed the sum of one hundred dollars, exclusive of materials to be furnished from the Corporation Store Yard, the same shall be done under a contract awarded in the manner provided for awarding contracts for the improvement of streets.

SEC. 33. The Board of Public Works shall also from time to time, after it shall have been directed so to do by the Common Council by ordinance, invite proposals for supplying to the city and county such materials as may be required for the repairs of the public streets or of any improvement therof, and such proceedings shall be had in awarding the contracts therefor, as are herein provided for awarding contracts for the improvement of streets.

SEC. 34. The Common Council shall select some place in the city and county of San Francisco which shall be known as the Corporation Store Yard wherein shall be kept all supplies, material, implements and machines belonging to said city and county that are to be used in repairing or cleaning the streets or any improvements thereon. The Board shall appoint a Storekeeper for said Corporation Store Yard who shall hold his office for two years and until his successor is appointed and qualified. He shall give a bond in the sum of five thousand dollars for the faithful performance of his duties, to be approved by the Board, and shall receive a salary of one hundred dollars per month. He shall have the custody of the Corporation Store Yard and

of all the supplies, material and implements kept therein, and shall keep full and proper books of account in which shall be kept a systematic account of all purchases, and of the receipt of supplies and material under any contracts awarded under the provisions of the preceding section and of the delivery thereof, which books shall at all times show the amount of said material and supplies on hand and in store, and when, to whom, and for what purpose each article was delivered. He shall be responsible for all the material and supplies placed in said Store Yard, and shall not deliver any article except upon the written order or requisition of the President and Secretary of the Board of Public Works, and he shall take the written receipt indorsed upon said order of each person to whom any delivery is made, specifying the date of such delivery and the amount and kind of materials or supplies delivered. For any deficiency in his accounts or delivery of any article without such order or requisition and receipt, he shall be liable upon his official bond. All cobble stones, or stone blocks or other material with which any street or portion of a street may have been paved or planked shall, if at any time removed from said street, be taken to said Corporation Store Yard, and there kept and disposed of by the Storekeeper in the same manner as other supplies ; and if any person shall take or appropriate to his own use any of said material he shall be guilty of grand or petit larceny, as the case may be.

### CHAPTER III

#### OF THE OPENING OF NEW STREETS.

SECTION 1. Whenever an application shall be made to the Board of Public Works for the straightening, widening or extending of any street, or for the opening of a new street, signed by the owners of a majority of the frontage of the lands upon the line of said street, and such improvement requires the condemnation of private property, and the Board shall by resolution determine that the improvement would be of public benefit, it shall make an estimate of the cost and expense of such improvement, and determine by resolution the district which will be affected by, and should be assessed for the cost and expenses of such improvement; *provided*, that no proceedings for opening, widening, straightening or extending any street shall be had except upon the filing of such petition, and in accordance with the provisions herein contained, nor until after the persons signing said petition shall have deposited with the Secre-

tary of the Board an amount of money which, as may be determined by said Board, will be sufficient to defray all the cost and expenses that may be incurred in case the Common Council shall not pass an ordinance for said improvement.

SEC. 2. If within three months after the passage of the resolution determining such district, a majority of the owners of the land within said district who shall also be the owners of two-thirds of the superficial square feet of the property described within said district, and of three-fourths in value of said property—including improvements thereon—estimating said value according to the last preceding assessment roll of said city and county, shall present to said Board a petition for said improvement, verified by their oaths and describing the lands of which they are the owners, and showing the amount at which the same was assessed upon the last preceding assessment roll of said city and county, and stating that they are the owners and in possession of the lands named in said petition, the said Board shall pass a resolution of its intention to recommend said improvement to the Common Council, and shall in such resolution specify a day upon which it will hear any objections that may be made to said improvement, before passing such resolution of intention. Before passing such resolution of intention, said Board shall cause to be prepared a map or diagram of the district affected by and to be assessed for the cost and expense of said improvement, upon which shall be delineated the several lots of land upon which said assessment is to be levied, and also the lots of land which are to be taken for said improvement, and showing the name of the person to whom the said lots were assessed upon the last assessment roll of said city and county, together with the amounts of such assessments.

SEC. 3. The Secretary of said Board shall thereupon cause said resolution of intention to be published in the official newspaper, and also in one other daily newspaper of general circulation in said city and county, for a period of thirty days, Sundays and non-judicial days excepted, and shall also cause a copy of said resolution to be mailed, postage paid, in the Post Office at said city and county, directed to each person whose name is delineated upon said map, at least ten days before the day named for hearing objections thereto.

SEC. 4. At any time before the day fixed in such resolution for hearing objections to said improvement, any person interested therein may file with the Secretary of said Board his objections thereto, briefly stating the grounds thereof; and upon the day fixed for hearing the same, or some day to which the hearing thereof shall then be postponed, said Board

shall proceed to hear and shall determine the sufficiency of any objections which may have been filed.

SEC. 5. If said Board shall determine that such objections are sufficient to prevent a recommendation of the improvement, it shall pass a resolution to that effect, and no further proceedings shall be had under the said petition. If no objections have been filed, or if the Board shall determine that the objections filed are insufficient, it may pass a resolution recommending to the Common Council the said improvement, and in its recommendation shall specially report to the Common Council whether in its opinion the land within the district specified as affected by said improvement will be benefited to the extent of the cost and expense of said improvement.

SEC. 6. If said Board shall pass a resolution recommending the said improvement, the Secretary shall forthwith transmit to the Clerk of the Common Council a copy of the said resolution, together with the petition, map, estimate of the cost and expense of said improvement, and any objections that may have been filed, and the Common Council shall at its first regular meeting thereafter, or at such sessions of either Board of said Common Council to which said hearing may be adjourned, proceed to pass upon said recommendation, and may, by resolution, adopt or reject the same; *provided*, that such recommendation shall not be adopted except by a vote of nine members of each Board. If said recommendation is rejected, no further action shall be had thereon or upon said petition. If the Common Council shall adopt said recommendation, it shall within thirty days thereafter pass an ordinance providing for the said improvement, and may in said ordinance prescribe such rules for the conduct of the Board of Public Works, respecting the assessment and valuation to be made by said Board, and providing for the condemnation of said lands, and the collection of said assessment, in addition to the rules herein prescribed, as to the said Common Council shall seem just or expedient. Upon the passage of said ordinance, the Clerk of the Common Council shall transmit a certified copy thereof to the Board of Public Works.

SEC. 7. Upon the receipt by said Board of Public Works of a copy of said ordinance, said Board shall cause to be made an accurate survey of the contemplated improvement, and a map thereof, upon which shall be delineated, showing its extent in feet and inches, each and every lot or parcel of land which is to be taken or appropriated for the purposes of the intended improvement, and also each and every lot or parcel of land within the district determined to be affected by, and which is to be assessed for the cost and expense of said improvement, together with the

names of the persons, as owners thereof, to whom the said lots and parcels of land were assessed upon the last preceding assessment roll of said city and county. After the said survey and map is made, the Board shall pass a resolution designating a day on or after which it will proceed to distribute and apportion, in the form of an assessment upon the lands and lots delineated on said map, the cost and expense of said improvement.

The cost and expense of the improvement shall include the value of the land taken, the expenses of the proceedings for its appropriation or condemnation, and the cost of grading to the official grade the land taken for said street.

The Secretary of the Board shall cause said resolution to be published for a period of twenty days before the day fixed in said resolution for proceeding to make said valuation and assessment.

SEC. 8. On the day named in said notice and upon such other days as the matter may be continued to, from time to time, said Board shall proceed to value the several parcels of land necessary to be taken for the purposes of the intended improvement. The said value shall be ascertained as of the time of said inquiry, independently of any appreciation or depreciation that may be caused to the same by reason of such intended improvement, and the Board shall fix said valuation as the amount to be given to the owners thereof. The Board shall also assess the benefits and damages which may result from the contemplated improvement to the lands within said district, and shall distribute the total value of all the lands taken, together with the damages, if any, caused by said improvement to the adjacent lands, and the estimated cost and expense of said improvement, in the form of an assessment, upon each and every lot and parcel of land within the district determined to be affected by said improvement in proportion to the benefits which said Board shall determine will be received by said lots and lands.

SEC. 9. If any portion of the land taken for such improvement shall be a part of a larger lot, the Board in making the assessment shall deduct from the value of the land taken, the amount of the assessment which shall be assessed for benefits upon the remaining portion of said lot, and the owner shall be entitled to receive the difference between the value of said lot taken and the assessment for benefits upon the remaining portion of the lot.

SEC. 10. Before proceeding to make such valuation and assessment, the Commissioners of the Board of Public Works shall each take and subscribe an oath before one of the Judges of the Superior Court of said city and county, that he will, to the best of his ability and without fear or favor, perform his duties in making the proposed assess-

ment, and that he has no interest in any of the land to be taken or assessed for the proposed improvement. The meetings of the Board, when engaged in making said assessment, shall be public and shall be held at the office of the Board, and all persons interested in any such assessment shall have the right to be present and be heard, either in person or by counsel. All persons claiming any interest in the lands to be taken for said improvement or that will be damaged thereby, are required at or during such hearing to file with the Board, plats, and a description of their respective lots of land, together with an abstract of their title or interest in the same.

SEC. 11. In making said assessment and valuation the Commissioners shall act as a Board, and the said assessment and valuation shall be authenticated by the signatures of at least three of said Commissioners as "Commissioners of the Board of Public Works," and every assessment and valuation so authenticated and recorded in the Book of Assessments for Condemnation shall be *prima facie* evidence of the correctness and regularity of all the proceedings of said Board and of the Common Council prior to the date of such record.

SEC. 12. In determining the valuation of the property that is taken for said improvement, the Board shall, in its report, state, under appropriate headings, a brief description of each parcel thereof, the amount allowed for the same, the name of the owner of each parcel, when known, (and if unknown, the same shall be so stated), the name of any claimant thereto, or to any interest therein; and in making the assessment for the cost and expense of said improvement, the Board shall state in the Assessment Roll, under appropriate headings, a brief description of each lot assessed, the amount assessed against the same, the person to whom the said property was assessed upon the last preceding assessment roll of said city and county, the owner thereof, if known (and if unknown, the same shall be so stated), and the total amount of the costs and expenses of said improvement.

SEC. 13. Upon the completion of the said valuation and assessment, the Board shall cause to be published, for twenty days, in two daily newspapers of general circulation published in said city and county, one of which shall be the official newspaper, a notice of the completion of said assessment and valuation, and notifying all parties interested therein to examine the same, and for that purpose said assessment, valuation and maps shall be open and exhibited to public inspection at the office of the Board for thirty days after the first publication of said notice. During said period of thirty days, the Board may alter, change or modify said assessment in any respect. Upon the expiration of said thirty

days, it shall complete the same in the form of a report and schedule, embracing the value of the lands taken and the assessment of the said value, together with the costs and expense of the improvement, as hereinbefore provided, upon the several parcels of land embraced within the aforesaid district, which report and schedule shall, within ninety days after the first publication of the last mentioned notice, be filed in the office of the County Clerk of the city and county of San Francisco, together with a petition signed by the President of said Board to the Superior Court praying for a judgment of said Court confirming the assessment contained therein against the respective lots therein described as assessed, and for the condemnation and conveyance to said city and county, upon the payment of the value thereof, as ascertained by said report, of each of the parcels of land alleged in said petition to be necessary to be taken for said improvement.

SEC. 14. On filing such petition, and upon application to the said Court, the Presiding Judge thereof shall appoint some day, not less than ten nor more than thirty days thereafter, as the time when any objections to the confirmation of said report will be heard by said Court, and the Clerk of said Court shall thereupon cause to be published for ten days, in three daily newspapers of general circulation published in said city and county, one of which shall be the official newspaper, and the others of which shall be designated in the aforesaid order of the Judge, a notice of the filing of said report and of the day assigned for the hearing of any objections that may be made thereto, and any party interested therein may at any time before the day assigned for the hearing thereof, file in said Superior Court his objections in writing, to the confirmation of the same, specifying with particularity his objections, and all objections not so specified shall be deemed to be waived. Upon the day fixed in said order of the Presiding Judge, the said Court shall proceed to the hearing of any objections that may have been filed to the confirmation of the said report, and upon proof of the publication of said notice said Court shall have and take jurisdiction of said report, and of the subject matter thereof, as a special proceeding, and upon the said day, and at any other time or times to which said hearing may be adjourned, may hear the allegations of the parties and proofs adduced in support of the same, and may confirm said report, or change, alter or modify the same, or cause the same to be changed, altered or modified by said Board of Public Works. Said judgment of confirmation shall be a lien upon each parcel of land, described in such report for the amount assessed against the same, and shall provide for the conveyance to said city and county of each and every of the lots of land declared necessary for the purpose of said improvement, upon the

payment of the value thereof as ascertained by such judgment.

SEC. 15. Any person who may have filed objections to the confirmation of said report may appeal from said judgment to the Supreme Court at any time within thirty days after such judgment. The amount of the undertaking on such appeal shall be fixed by the Presiding Judge of the Superior Court, and such undertaking shall be made payable to the City and County of San Francisco. For the purposes of such appeal, the judgment roll of the proceedings in the Superior Court shall consist of the report, objections, judgment and bill of exceptions, or so much thereof as may be necessary to determine said appeal, and said appeal shall be heard by said Supreme Court on questions of law only. If said judgment be reversed or modified, the Superior Court shall take such proceedings as will cause the said assessment and valuation to be made in accordance with the opinion of the Supreme Court. The City and County Attorney shall act as the attorney for the Board of Public Works in proceedings under this Chapter.

SEC. 16. After the confirmation of said report, if the time for appealing has expired or if an appeal has been taken and the judgment appealed from has been affirmed, upon the application of the Board of Public Works the Clerk of the Superior Court shall issue a certificate to that effect to said Board, and the said assessment shall then be recorded in a Book of Assessments for Condemnation kept for that purpose, and the record thereof signed by the President and Secretary of said Board; and the Secretary shall then deliver to the Tax Collector the assessment so confirmed and recorded, together with the said certificate of the County Clerk and a warrant to the Tax Collector directing him to collect the said assessment; and thereupon such proceedings shall be had in the collection of said assessment as are hereinbefore provided for the collection of assessments upon property for the improvement of streets.

SEC. 17. Upon the report of the Tax Collector to the Common Council that the amount of said assessment has been collected and paid into the Treasury, the Common Council shall order to be paid out of the Treasury the sums fixed in said judgment as the compensation for the lands to be taken for said improvement, and upon the delivery to the Treasurer, by any person entitled to receive the compensation for any lot or parcel of land so taken, of a deed or conveyance of said lot or parcel of land, to the city and county, approved by the City and County Attorney, and a certificate from the said City and County Attorney that such person is entitled to the compensation for the land described in said deed, the Treasurer shall pay to said

person the amount awarded for said lot by said judgment of condemnation.

SEC. 18. If the owner or owners of any of said lots or subdivisions neglect or refuse for the space of ten days, to make and deliver said deed or deeds, or are unable by reason of any incapacity to make a good and sufficient deed thereof to said city and county, or if the City and County Attorney shall certify that the title to any of said lots is in dispute or uncertain, or that there are conflicting claimants to the amount awarded as compensation therefor, or to any part thereof, a warrant upon the Treasury for the payment of the amount so awarded shall be by the order of the Common Council drawn by the President and Secretary of the Board of Public Works, and, together with a certificate of the Treasurer indorsed thereon that the said warrant has been registered by him and that there are funds in the Treasury set apart to pay the same, be deposited with the County Clerk, and thereupon, upon a petition to the Presiding Judge of the Superior Court of said city and county setting forth said facts, by the President of the said Board of Public Works, the said Presiding Judge shall issue an order *ex parte* directing the Sheriff of said city and county to place the said Board of Public Works in the possession of the said land for the said city and county.

SEC. 19. At any time thereafter any claimant to said award, or any part thereof, may file his petition in said Superior Court against all parties in interest for an adjudication of all conflicting claims to the same, or for an order that the same be paid to him, and thereupon such proceedings shall be had thereon as may be agreeable to law and equity. Upon the entry of a final judgment in such proceeding, the County Clerk shall collect the warrant and pay the proceeds to the person or persons named in said judgment as entitled thereto. It shall be provided in said judgment that before receiving the proceeds of said warrant, said party or some one duly authorized in his or their behalf, shall make and execute to the city and county and deliver to the County Clerk a sufficient deed conveying to said city and county the said lot of land.

SEC. 20. Immediately after taking possession of the land required for said street, said Board of Public Works shall report the same to the Common Council, and thereupon the Common Council shall order said street to be graded, and the same proceedings shall be had in awarding the contract and payment therefor, as are hereinbefore provided for in reference to contracts for grading other streets.

SEC. 21. If any member of said Board of Public Works shall be interested in any of the land to be taken or assessed for such improvement, it shall be the duty of the Mayor to appoint for the purpose of making the

said assessment and valuation only, some competent person to act as one of the Commissioners therefor, who shall possess the same qualifications as are provided for said Commissioners, and who shall before entering upon his duties, take the oath required of said Commissioners, and enter into a bond for such amount as may be fixed by the Common Council.

## CHAPTER IV.

### OF SEWERS AND DRAINAGE.

**SECTION 1.** The Board of Public Works shall devise a general system of drainage which shall embrace all matters relative to the thorough, systematic and effectual drainage of the City and County, not only of surface water and filth but also of the soil on which said City is situated, to a sufficient depth to secure dryness in cellars and entire freedom from stagnant waters, and in such manner as best to promote the cleanliness and healthfulness of said City and County, and shall report to the Common Council in reference thereto, and shall from time to time make to the Common Council such recommendations upon the subject of sewerage and drainage as it may deem proper.

**SEC. 2.** The Board shall prescribe the location, form and material to be used in the construction, reconstruction and repairing of all public sewers, manholes, sinks, drains, cesspools, and other appurtenances belonging to the drainage system, and of every private drain or sewer emptying into a public sewer, and shall determine the places and manner of such connection.

**SEC. 3.** The Board shall have power to make rules and regulations and restrictions concerning the public and private sewers and drains in said City and County, and upon the recommendation of said Board the Common Council is authorized to pass an ordinance establishing the same and prescribing the penalties for any violation thereof.

**SEC. 4.** No person shall make connection with or open or penetrate into any public sewer or drain without first obtaining a permit in writing, from the Board of Public Works, and complying with the rules and regulations of the Board in reference thereto.

**SEC. 5.** Whenever the Board shall recommend to the Common Council the construction of any sewer or drain it shall at the same time make and furnish with said recommendation an estimate of the cost thereof, and of the time required for constructing the same.

**SEC. 6.** The Board may also recommend to the Common Council the construction of such canals, sewers, ditches, drains, embankments, reservoirs, pumping works,

machinery, and other works necessary for a proper and effectual drainage of said City and County, together with plans for connecting the same with sewers and private drains already constructed or thereafter to be constructed.

SEC. 7. The Common Council shall not authorize the construction of any sewer or drain except upon the recommendation of said Board, and whenever the construction of such sewer or drain shall involve a cost of more than five dollars per lineal foot for any block, it shall not be authorized except by an ordinance passed by the vote of nine members in each Board.

SEC. 8. The Common Council may, upon the recommendation of said Board of Public Works, by an ordinance, passed by the votes of at least nine members of each Board, authorize the purchase of any personal property or the acquisition by purchase or condemnation of any real estate which may be necessary for the construction of any sewer or the making of any improvement provided for in this Chapter. No purchase of any such property shall be made except upon the approval of the Common Council, by the vote of at least nine members of each Board, and the title to all real estate purchased shall be taken in the name of the City and County.

SEC. 9. The said Board may also, with the like approval of the Common Council, agree with the owners of any real estate, upon which it is deemed desirable to construct any sewer or other improvement relative to sewerage or drainage, upon the amount of damage that is to be paid to such owners for the purpose of such improvement and for the perpetual use of said real estate for such purpose.

SEC. 10. Whenever upon the recommendation of said Board of Public Works the Common Council shall determine upon any improvement for purposes of sewerage and drainage which necessitates the acquisition or condemnation of private property and the Board of Public Works are unable to agree with the owner or owners thereof upon the amount of compensation or damages to be paid therefor, or whenever such owner or owners is in any way disqualified or incapable of making any agreement in reference thereto, and in all cases in which the said Board shall deem it most expedient the said Board shall, upon the approval thereof of the Common Council expressed by ordinance, have the right to cause the said property to be condemned, and to institute proceedings for the condemnation of such property, or for the ascertainment of such damages in the manner, so far as the same is applicable, which is herein provided for the condemnation of real estate when necessary for the opening of any new street.

## CHAPTER V.

## OF THE NEW CITY HALL.

SECTION 1. The Board of Public Works shall take possession of the premises bounded by Larkin street, McAllister street, and Park Avenue, and the improvements thereon, and proceed with the construction of the buildings and improvements on said premises, known as the New City Hall, according to the plans heretofore adopted for the construction of the same.

SEC. 2. All contracts for work, labor and materials heretofore entered into by the Board of New City Hall Commissioners of the City and County of San Francisco, for the construction of said New City Hall, shall be carried out and performed under the supervision and direction and to the satisfaction of the said Board of Public Works ; and each of said contracts shall remain in as full force and effect as if the said New City Hall Commissioners had continued to control the same.

SEC. 3. The Secretary of the Board of Public Works shall keep the records of the proceedings of said Board, respecting the construction of the New City Hall, in the same books in which they have hitherto been kept; and the said records shall be kept distinct from the general records of said Board, and shall be open to the inspection of the public at any time during office hours.. The said Secretary shall keep full and correct minutes of all the proceedings of said Board respecting the construction of said New City Hall, and shall keep an accurate account of the receipts and disbursements thereof, and shall keep an accurate account with each officer, clerk, contractor and employee for any work or material done or furnished for the construction of said New City Hall.

SEC. 4. The Board shall by resolution, fix a day in each week for its meeting, for the purpose of transacting business for the New City Hall, and on which all its transactions in reference thereto shall be held.

SEC. 5. When work is to be done upon said building, or materials to be furnished therefor, the Board shall advertise for at least thirty days in the official newspaper, and also in two other newspapers of general circulation, published in said city and county, of which one shall be published in the morning and one in the evening, for sealed proposals for doing said work, or furnishing said material, or both, as it may deem best. Said advertisement shall contain a general description of the work to be done and the materials to be furnished, the time within which the same is to be done or furnished, the amount of the bond to be given as security therefor; and shall refer to plans and specifications

for such other details as may be necessary to give a correct understanding regarding the work or materials, and shall also state the day, and the hour on said day, when said bids will be received and opened. The provisions contained in Chapter II of this Article, in reference to bids and proposals, and awarding and entering into contracts and giving bonds for the performance of such contracts, are hereby made applicable to all contracts to be entered into for the completion of the New City Hall.

SEC. 6. For the purpose of raising the money necessary to complete said building, the Common Council shall levy annually, in the same manner and at the same times as other taxes in said city and county are levied, an *ad valorem* property tax on the real and personal property within the said city and county of ten cents on each one hundred dollars of value, as shown by the assessment roll of said city and county for the current fiscal year.

SEC. 7. The money arising from the tax so levied and collected shall be kept by the Treasurer in a fund to be known as the New City Hall Fund, out of which Fund all claims for work, labor, and materials used in the construction of said building, the salaries and wages of the persons employed in and about the construction of said building, and the salaries of the Architect and Superintendent, shall be paid; and in no case shall any portion of said Fund be used or expended for any other purpose than that herein indicated, nor shall any part of the cost of the construction of said building be paid out of any other or different fund. All claims against the said Fund shall be allowed by the Board by resolution entered upon its minutes, with the ayes and noes; and a certificate of said allowance, signed by the President and Secretary, indorsed upon the claim; and thereupon the said claim shall be audited and paid, as other claims upon the Treasury. The Board shall not in any fiscal year make any contract which shall cause an expenditure during said year, in the construction of said building, of any sum greater than the amount raised by the aforesaid tax.

SEC. 8. Said Board may allow the claims of the contractors, from time to time, as work progresses or materials are furnished, but until the contract is completed such demands thereon allowed, shall not exceed seventy-five per cent of the value of the labor or material furnished, which said value shall be ascertained and determined by the certificate of the Architect and Superintendent, subject to the approval of said Board.

SEC. 9. The said Board shall, on or before the first day of August in each year, transmit to the Common Council a statement showing the moneys expended during the preceding

fiscal year, the contracts upon which the same was expended, the amount due upon unfinished contracts, and a list of the contracts awarded and unfinished, and the amount of money that will be required for each of said contracts within the current fiscal year, and the estimated amount required to complete the said New City Hall, and such other matters as will show the progress made in the construction of the said New City Hall.

SEC. 10. When the said New City Hall shall be erected and completed, the Board of Public Works shall render a full and final account of its transactions, and thereupon the duties of the said Board of Public Works, in reference to the construction of the said New City Hall, shall cease and determine, and any moneys in said Fund, shall be transferred to the General Fund.

SEC. 11. The Commissioners of the Board of Public Works shall not, nor shall either of them, or the Architect, Superintendent, Engineer, or Secretary, be interested, directly or indirectly, in any contract for work, labor, or material, entered into by said Board; nor shall either of them be allowed to receive any gratuity or advantage from any contractor, laborer, or person furnishing labor or material for the same. A violation of the provisions of this section shall be a felony.

## CHAPTER VI. OF THE PARK COMMISSIONERS.

SECTION 1. All public parks, avenues, roads, highways and places which have been hitherto under the management and control of the Park Commissioners appointed under and by virtue of an Act of the Legislature of this State, entitled "An Act to provide for the improvement of public parks in the City of San Francisco," approved April 4th, 1870, shall continue to be and remain public parks and grounds, and shall be under the exclusive control and management of a Board of three Commissioners who are hereby designated as Park Commissioners.

The said Commissioners shall be appointed by the Mayor by and with the advice and consent of the Board of Aldermen, and shall hold their office for the term of four years from the date of their appointment, and until their successors are appointed and qualified—*provided*, that the present Park Commissioners shall continue to hold their office until the expiration of their term of office, and *provided* further, that the persons first appointed as Park Commissioners under this Charter shall immediately upon their appointment so classify

themselves by lot that the term of office of one of said Commissioners shall expire at the expiration of two years, one at the expiration of three years, and one at the expiration of four years, from the date of their appointment.

SEC. 2. Each of the Commissioners shall possess the same qualifications for eligibility as are required for the Mayor, and shall within twenty days after the receipt of his commission take and subscribe the constitutional oath of office. The said Commissioners shall not receive any salary or compensation for their services. Two of said Commissioners shall constitute a quorum for the transaction of business, but no money shall be expended or contract entered into authorizing the expenditure of money without the approval of two of said Commissioners.

SEC. 3. The said Park Commissioners shall have the full and exclusive power to govern, manage and direct the said public parks and grounds; to lay out, regulate and improve the same; to pass ordinances and regulations for the use and government of the same; to appoint such engineers, surveyors, clerks and other officers as may be necessary, and to prescribe and define their respective duties and authority; to employ such laborers and other workmen as may be necessary from time to time and to fix the amount of their compensation, and shall have exclusive control and disposition of the funds provided for the management and improvement of said parks and grounds.

SEC. 4. The said Park Commissioners shall hold and exercise all rights and privileges that have been hitherto conferred upon the Park Commissioners heretofore having the control and management of said public parks and grounds, and shall have and take possession and control of all papers, maps, documents, plans, property and property rights used in connection with or appertaining to said public parks and grounds, or the management thereof.

SEC. 5. The said Park Commissioners may from time to time pass such ordinances and regulations as they may deem necessary for the regulation, use and government of said parks and grounds not inconsistent with the laws of the State, and may prescribe the penalties for their violation. All persons arrested for the violation of such ordinances shall be tried before the Police Court. Every such ordinance shall, before it takes effect, be published for ten days (legal holidays excepted) in the official newspaper of said city and county. All existing ordinances and regulations heretofore passed by the Park Commissioners who have had the control and

management of said public parks and grounds, shall continue to be of full force until repealed or modified.

SEC. 6. The said Park Commissioners may appoint and maintain out of the funds intrusted to their management, as many special policemen for said parks and grounds as they may deem requisite for the purpose of enforcing their ordinances and regulations. Said policemen shall be known as the "Park Police," and shall have authority to arrest, and hold to such bail as in the ordinance or regulation, may be fixed as the maximum penalty for the violation thereof, or as may be prescribed by regulation by said Park Commissioners, any person who shall be found in the act of violating any ordinance or regulation of said Park Commissioners or of the city and county. The said Commissioners may also provide a place of detention within either of said public parks in which the persons so arrested may be detained temporarily, or until said park police can deliver the person arrested to the municipal police.

SEC. 7. The Common Council shall annually appropriate a sum not exceeding one hundred thousand dollars for the purpose of preserving and improving the said public parks and grounds, and for this purpose shall in each year levy a special tax upon all the property in said city and county sufficient to raise the sum so to be appropriated and to provide for the interest and gradual redemption of the bonds heretofore issued for the improvement of said parks. All sums of money so appropriated shall be disbursed by the Park Commissioners in the management and improvement of said public parks and grounds.

SEC. 8. Said Park Commissioners shall not in any year incur any greater liability or disburse any money beyond the amount provided for in Section seven of this chapter, provided that if at the close of any fiscal year there shall be any money in the Treasury to the credit of the Park Improvement Fund, the same shall be carried to the credit of said Fund at the beginning of the next fiscal year and may be expended by said Park Commissioners during said year in addition to the amount appropriated for that year.

SEC. 9. The Park Commissioners shall employ one general superintendent who shall perform the duties of overseer and managing gardener, and who shall receive a salary of two hundred dollars per month for his services. The City Engineer shall be *ex-officio* the engineer for said public parks and grounds, and shall perform such engineering work and surveying as the Commissioners may require of him, and shall make no charge for the services performed by him.

SEC. 10. The said Park Commissioners shall, on or before the first day of August in each year, make a full report to the Common Council of their proceedings, and a detailed statement of all the expenditures by them during the preceding fiscal year, and of the amount of money unexpended and to the credit of the Park Improvement Fund.

SEC. 11. No money shall be paid out of the Treasury for any salary or expenditure incurred in the management or improvement of said parks and grounds unless the same shall have been previously approved and allowed by at least two of said Commissioners which approval and allowance shall be indorsed upon the face of the claim or demand, and shall specify the purpose for which said expenditure is made; *provided*, that the pay roll of the employees and laborers employed in and about said parks and grounds shall be prepared weekly; and upon the approval and allowance thereof by two of said Commissioners indorsed thereon the amount of said pay roll shall be paid to the said Commissioners, who shall disburse the said amounts to the said laborers and employees.

SEC. 12. The said Park Commissioners shall not, nor shall either of them be at any time interested either directly or indirectly in any contract or work of any kind, in or about the said parks and grounds, or in any claim or demand that may be approved or allowed by any of said Commissioners.

SEC. 13. The said Board of Park Commissioners is hereby authorized by ordinance, whenever in its judgment the public good will be promoted thereby, to permit and allow to be constructed and maintained, in accordance with such regulations as said Board may from time to time make in relation thereto, one or more tunnels under the surface of any of the public parks, avenues, roads, highways and places mentioned in Section 1, of this chapter, for the passage of steam railroad cars, and other carriages and vehicles and passengers, and is also authorized to permit the laying of gas and water pipes and telegraph lines beneath the surface of said parks and other places.

## ARTICLE VI.

### **Public Institutions.**

#### CHAPTER I.

##### OF THE FREE PUBLIC LIBRARY AND READING ROOMS.

SECTION 1. The Free Public Library now organized and existing in this city and county shall be continued and maintained as herein provided. The said Free Public Library

shall be under the management and control of a Board of twelve Trustees, who shall hold their office for the term of four years after the date of their appointment and until their successors are appointed and qualified; *provided*, that the present acting Board of Trustees of said Free Public Library—with the exception of the Mayor—shall continue to act as such, under this Charter. Immediately after this Charter goes into effect one other Trustee shall be appointed to act with them, and thereupon the said Trustees shall so classify themselves by lot that three of said Trustees shall go out of office at the expiration of one year, three at the expiration of two years, three at the expiration of three years, and three at the expiration of four years. A record of such classification shall be entered upon their minutes and a copy thereof deposited with the Clerk of the Common Council.

SEC. 2. The Common Council is empowered, to levy and collect annually a tax not to exceed one mill on the dollar, for the purpose of maintaining in said city and county the Free Public Library and Reading Rooms of said city and county, and of purchasing such books, journals and other periodicals, and for purchasing or leasing real and personal property, and erecting such buildings as may be necessary therefor; but it shall not levy, in any one year, by virtue of the provisions of this Section, more than forty thousand dollars; and at least one-half of the amount appropriated shall be expended for books and reading matter.

SEC. 3. All revenue derived from said tax, together with all money or property derived by gift, devise, bequest, or otherwise, for the purposes of said Library, shall belong to and be known and designated as a Library Fund, and shall be paid into the City and County Treasury, and there kept separate and apart from other funds, and be drawn therefrom as hereinafter provided, but shall only be used and applied to the purposes herein authorized; *provided*, that where such disposition shall be inconsistent with the conditions or terms of such gift, devise or bequest, the Trustees shall make such provisions for the safety and preservation of the same as shall be proper to insure the application thereof to the use of the Free Public Library, in accordance with the terms and conditions of such gift, devise or bequest.

SEC. 4. The title to all property, real and personal, acquired, or which may be acquired by purchase, gift, devise, bequest or otherwise, for the purpose of said Free Public Library, when not inconsistent with the terms of its acquisition, shall vest, and be, and remain in said city and county,

and may be protected, defended and sued for by action at law or otherwise, in the name of said city and county.

SEC. 5. The office of Trustee shall be honorary, without salary or compensation; and for good cause a Trustee may be removed from office, in the same manner as other city and county officers.

SEC. 6. The Trustees shall take charge of the Free Public Library and Reading Rooms, and of all real and personal property thereunto belonging, or that may be acquired by loan, purchase, gift, devise, or otherwise, when not inconsistent with the terms and conditions of the gift, devise, or bequest; they shall meet for business purposes on the first Tuesday of each month, and at such other times as they may appoint in a place to be provided for the purpose, and a majority of their number shall constitute a quorum for business. They may appoint one of their number to act as President of their Board, and may elect a Librarian. They shall also elect a Secretary, who shall keep a full statement and account of all property, money, receipts, and expenditures, and a record and full minutes in writing of all their proceedings. The Secretary may certify to such proceeding, or any part or portion thereof, under his hand, verified by the official seal provided and adopted by the Trustees for that purpose.

SEC. 7. Such Trustees, by a majority vote of all their members, to be recorded in the minutes with the ayes and noes at length, shall have the power:

*First*—To make and enforce all rules, regulations and by-laws necessary for the administration, government, and protection of the Free Public Library and Reading Rooms, and all property belonging thereto, or that may be loaned, devised, bequeathed or donated to the same.

*Second*—To exercise and administer any trust declared or created for such Free Public Library and Reading Rooms, and to provide memorial tablets and niches to perpetuate the memories of those persons who make valuable donations thereto.

*Third*—To remove any Trustee who may neglect to attend the meetings of the Board of Trustees, or who may absent himself from such meetings, or, without the consent of the Board, from the State for three consecutive months.

*Fourth*—To define the powers and prescribe the duties of any and all officers; determine the number and elect all necessary subordinate officers and assistants, and at their pleasure remove any officer or assistant.

*Fifth*—To purchase necessary books, journals, publications and other personal property.

*Sixth*—To order the drawing and payment upon properly authenticated vouchers, duly certified by the President and Secretary, of money from the Library Fund, for any liability or expenditure herein authorized, and generally to do all that may be necessary to carry into effect the provisions of this Charter with reference to said Free Public Library and Reading Rooms.

*Seventh*—To fix the salary of the Librarian, Secretary and assistants, and by and with the consent and approval of the Common Council, expressed by ordinance, to erect and equip such building or buildings as may be necessary for said Free Public Library and Reading Rooms, upon any real estate purchased or appropriated therefor by the Common Council.

SEC. 8. The Trustees of such Free Public Library and Reading Rooms on or before the first day of August, in each year, shall make an annual Report to the Common Council, giving the condition of their trust, with full statements of all property and money received, whence derived, how used and expended, the number of books, journals, and other publications on hand, the number added by purchase, gift or otherwise, during the year, the number lost or missing, the number and character of those loaned, and such other statistics, information, and suggestions as may be of general interest. A financial report, showing all receipts and disbursements of money, shall also be made by the Secretary of the Board of Trustees, duly verified by his oath. The Common Council of said city and county shall have power to pass ordinances for the protection of the said Free Public Library and Reading Rooms, and of all property thereto belonging, and to impose penalties for the violation of such ordinances, and shall also appropriate and authorize the use, either in whole or in part, of any real estate belonging to the said city or county, not dedicated to public use therein, for the purpose of erecting and maintaining a building thereon, to be used only for such Free Public Library and Reading Rooms.

## CHAPTER II.

### OF THE SAN FRANCISCO LAW LIBRARY.

SECTION 1. The Common Council is authorized and required by ordinance to provide, fit up and furnish, and provide with fuel, lights, stationery and all necessary conveniences, attendants and care, rooms convenient and accessible to the Judges and officers of the Courts, sufficient for the use

and accommodation of the San Francisco Law Library established under an Act of the Legislature of this State, entitled "An Act to provide for increasing the law library of the corporation known as the San Francisco Law Library, and to secure the use of the same to the Courts held at San Francisco, the Bar, the City and County Government, and the people of the City and County of San Francisco," approved March 9th, 1870, and for the use-and acommodation of those who have occasion for its use. The said Common Council is further authorized and required to appropriate, allow, and order paid out of the General Fund such sums as may be necessary for the purposes aforesaid, and all sums lawfully appropriated and expended pursuant hereto shall be paid out of the General Fund on demands duly audited, in the mode prescribed by this Charter or otherwise, for auditing other demands upon the Treasury.

### CHAPTER III.

#### OF THE HOUSE OF CORRECTION.

SECTION 1. The Common Council shall maintain and regulate a House of Correction, and may prescribe all necessary rules and regulations for the proper management of said Institution.

SEC. 2. The House of Correction shall be under the management of a Superintendent, who shall be appointed by the Mayor, by and with the advice and consent of the Board of Aldermen, and who shall hold office for a term of two years, at a salary of eighteen hundred dollars a year. He shall give bond in the sum of ten thousand dollars, with good and sufficient sureties, and shall, when authorized by the Common Council, appoint such subordinates as said Common Council may deem necessary, and the pay of each of such subordinates shall be seventy-five dollars a month.

SEC. 3. The Superintendent shall manage the general interests of said House of Correction; see that its affairs are conducted in accordance with the provisions of this Charter, the laws of this State, and such ordinances as the Common Council may from time to time pass for the regulation thereof; see that strict discipline is maintained therein; provide employment for the inmates; keep all persons employed at such labor on the public or other works as may be authorized by their sentence, or by law or ordinances of said Common Council, at least six hours a day during six days of the week, when the weather

will permit; when thereunto authorized by the Common Council, let out the labor of the prisoners to good and responsible parties, at a sum per day to be determined by said Common Council; *provided*, that the persons so laboring shall be duly and sufficiently secured at all times while at work; keep an exact account of all such hired labor, the number of days' work done, and for whom, and the amount collected or due on such work; punish disobedient or disorderly prisoners or prisoners who do not faithfully perform their task, by placing them in fetters and shackles, or confining them in dark or solitary cells. A record shall be kept of such punishment, showing its cause, mode and degree, and the duration of punishment thereof, a monthly report of which shall be made to the Common Council, with a detailed statement of the workings of the House. A like record of the conduct of each prisoner shall be kept by the Superintendent, and a report thereof similarly made to said Common Council.

SEC. 4. The Superintendent shall have charge of the inmates and property of the House of Correction, be its treasurer, keep accounts of all its receipts and of all property of the institution, and receipt for and preserve a record of all supplies furnished to said institution, with the names of the persons furnishing the same, and the date when furnished, and the amount and character thereof. He shall not contract any debt or incur any liability against said city and county; he shall, in a suitable apartment provided therefor, keep all supplies furnished to said House of Correction, and all articles manufactured therein or produce grown on the grounds thereof, which shall be under his personal custody, and no supplies, article, or product shall be removed from such apartment except by said Superintendent, and he shall at the time of such removal or withdrawal, make a record thereof in a suitable book kept for that purpose; he shall pay over to the Treasurer of said city and county, immediately, all moneys that may come into his hands as Superintendent of said House of Correction.

SEC. 5. The Superintendent shall have the power, under the direction of the Common Council, to sell perishable property; all property not of a perishable nature shall be sold under the direction of the Common Council, at public auction, in such place and upon such notice as the Common Council may prescribe. The Superintendent shall execute such bill or bills of sale as may be proper upon any such sales, and shall collect the purchase price, less the expense of making such sale, and pay the same over, immediately, to the Treasurer of said city and county.

SEC. 6. The Superintendent shall make quarterly, to the Common Council, a statement and estimate of all supplies necessary for said House of Correction for the quarter next ensuing, and the Common Council shall furnish all supplies necessary for said House of Correction, and all suitable material and implements sufficient to keep at work all persons committed thereto.

SEC. 7. The Superintendent shall supervise all contracts awarded, and all work done for the House of Correction; and shall see that all contracts are faithfully performed.

SEC. 8. The Superintendent shall have power to suspend any subordinate in said House of Correction, for disobedience, contumacy, or disrespect; but he shall report thereon to the Board of Aldermen, and shall not remove without their concurrence.

SEC. 9. The Superintendent shall annually make to the Common Council a full and detailed report, under oath, of the condition and management of said House of Correction and of all matters pertaining thereto. He shall be the custodian of all the books, papers and records of said House of Correction, and shall at all times keep the same open to public inspection.

SEC. 10. The Superintendent shall keep a record, in which shall be noted the conduct of all prisoners who shall have behaved obediently, orderly and faithfully in the discharge of their duties; and for each month in which any prisoner appears by such record to have been obedient, orderly and faithful, three days shall, with the consent of the Common Council, be deducted from his sentence; and for each month that it shall appear from such records that his conduct has been positively good, and that he has rendered a prompt and cheerful obedience to the rules of the House of Correction, five days shall be deducted.

SEC. 11. Male and female prisoners shall be kept separately in the House of Correction.

SEC. 12. The Superintendent shall at all times keep the female prisoners at such work as they are able to perform, and shall provide for them work, necessary material and means whereby they may be enabled to occupy their time in mending or making clothing, etc., for the use of the inmates of public or charitable institutions under the charge of said city and county.

SEC. 13. When any person is committed to said House of Correction and is too sick for immediate work, the Superintendent shall order him to be well taken care of in

such comfortable quarters as may be provided in the institution for the cure of the sick. Should the attending physician deem any prisoner too sick to remain in the House of Correction, the Superintendent may order him to be sent to the City and County Hospital until cured, when he must be returned to serve out his unexpired term of imprisonment.

SEC. 14. If any prisoner shall abscond or escape or depart from the House of Correction without a license, the Superintendent shall have power to pursue, re-take and bring him back, and to require all necessary aid for that purpose. The Superintendent may confine him to his work by fetters or shackles, or in such manner as he may judge necessary, or may put him in close confinement until he shall submit to the regulations of the House of Correction. And for each escape, the offender shall be holden to labor in the House of Correction for the term of one month in additionto the time for which he was first sentenced.

SEC. 15. All persons appearing for sentence in the Police Court or in the Superior Court of said city and county, who might be sentenced to imprisonment in the county jail, or in the State prison, may, instead thereof, be sentenced to imprisonment in the House of Correction, subject to the provisions of the next section.

SEC. 16. No person shall be sentenced to imprisonment in the House of Correction for a shorter or longer term than that for which he might be sentenced to the county jail or to the State Prison, and in no case whatever for a shorter term than three months, nor for a longer term than three years. No person who might be sentenced to imprisonment in the State Prison shall be sentenced to imprisonment in the House of Correction, if he is more than twenty-five years of age, or if he has been once before convicted of a felony or twice before convicted of petty larceny ; nor unless, in the opinion of the Court, imprisonment in the House of Correction will be more for his interest than imprisonment in the State Prison, and equally for the interest of the public. The fact of a previous conviction may be found by the Court upon evidence introduced at or before the time of sentence.

SEC. 17. The Common Council, so far as a due regard to economy will permit, may provide for the learning of trades by persons whose terms of imprisonment in said House of Correction are of sufficient length, and who have the capacity requisite therefor and will work industriously therat.

SEC. 18. The Superintendent shall give his personal attention to the duties of his office, and shall reside at the

House of Correction. The Common Council shall provide therein room and board for him, and for the subordinates whose presence may be required in and about said House.

## CHAPTER IV.

### OF THE INDUSTRIAL SCHOOL.

SECTION 1. The Common Council shall maintain an Industrial School, and prescribe all necessary rules and regulations for the proper management of said Institution.

SEC. 2. The Industrial School shall be kept for the detention, management, reformation, education and maintenance of such children under the age of eighteen years as shall be committed or surrendered thereto by the Courts of said city and county, as vagrants, living an idle or dissolute life, or who shall be convicted by the Police or Superior Court of any crime or misdemeanor, or who, being tried for any crime or misdemeanor in such Court, shall be found to be under fourteen years of age, and to have done an act which if done by a person of full age would be a crime or misdemeanor. The Police Court and the Superior Court shall have power to adjudge that such persons so convicted shall be so imprisoned, and the persons convicted shall remain at said Industrial School until he or she shall attain majority, unless a shorter term shall be fixed by said Court in the commitment. Such children shall be kept at such employments and be instructed in such branches of useful knowledge as may be suitable to their age and capacity. The Common Council may provide for binding out such children as apprentices during their minority, to learn proper trades and employments. The Common Council shall regulate the commitment, detention and discharge of such children, and designate and prescribe the causes, terms and conditions thereof.

SEC. 3. There shall be a Superintendent of said Industrial School. His term of office shall be two years, and his salary shall be one hundred and fifty dollars per month. He shall give a bond for the faithful performance of his duties, in the sum of five thousand dollars. He shall, when authorized by the Common Council, appoint such subordinates as said Common Council may deem necessary, and the pay of such subordinates shall be seventy-five dollars per month each.

SEC. 4. The Superintendent of said Industrial School shall, with respect to said Industrial School, be charged with the same duties and exercise the same powers as the Superintendent of the House of Correction, with respect to said

House of Correction, so far as pertinent and applicable to said Industrial School; and the Common Council may, from time to time, prescribe further regulations as to his duties and those of his subordinates as it may deem best.

SEC. 5. The Police Court and the Superior Court, or either of them, shall have power to discharge any person committed to said Industrial School who is not bound out as an apprentice or adopted, upon application of the Board of Aldermen or of the parents or guardians of any such person, if upon a hearing of the application such Police Court or Superior Court shall consider that such discharge is expedient; provided that no person shall be discharged at the request of a parent or guardian, until after ten days' notice in writing of the intention to apply for such discharge, shall have been served on the Clerk of the Board of Aldermen.

## CHAPTER V.

### OF THE HOME FOR THE CARE OF THE INEBRIATE.

SECTION 1. The Common Council shall appropriate a sum not exceeding eight hundred dollars in any one month, to the Home for the Care of the Inebriate of said city and county, for the support and maintenance of said Home, and the construction and improvement of a building for said Home, to be paid to the President, Secretary and Treasurer thereof; *provided*, that the said President, Secretary and Treasurer, and each of them shall give a good and sufficient bond in the sum of ten thousand dollars, with two or more sufficient sureties, to be approved by the Mayor, for the faithful management and disbursement of the moneys received by them under the provisions of this Section. Neither the President, Secretary, Treasurer, nor any Trustee of said Home shall be entitled to or receive any fee, salary, emolument, or reward of any kind whatever out of said appropriation, for any service or services rendered by them or either of them as such officers. The said President, Secretary and Treasurer shall, semi-annually, and as often as they may be required by said Common Council, report under oath to said Common Council, a detailed statement of all their receipts and disbursements of said moneys.

SEC. 2. All persons in said city and county charged with being insane, pending their examination, and all persons found to be insane and *en route* for a State Insane Asylum, shall be placed in said Home, and shall be cared for by the officers thereof while in said Home without charge to said city and county.

SEC. 3. Any Police Judge of said city and county is hereby empowered to commit to said Home any person who shall be convicted in the Police Court of habitual intemperance for a term not exceeding six months; *provided* that the Board of Managers of said Home may release, by a two-thirds vote of said Board of Managers, any person so convicted or otherwise placed in said Home before his or her term of sentence shall expire.

## ARTICLE VII.

### **Fire Department.**

#### CHAPTER I.

SECTION 1. There shall be a Board of Fire Commissioners of the city and county of San Francisco, consisting of five citizens of good character and standing, and possessing the same qualifications as to eligibility as are provided for members of the Board of Aldermen. They shall serve without salary or other compensation. They shall be appointed by the Mayor, by and with the advice and consent of the Board of Aldermen, without respect to polities; and the term of office of such Commissioners shall be four years from the date of their appointment; *provided*, that the Fire Commissioners now acting as such shall continue to hold their respective offices until the expiration of the terms for which they have been respectively elected or appointed. The persons appointed Fire Commissioners, as herein provided, shall each, before entering upon the discharge of his duties, take and subscribe the constitutional oath of office. If any of the persons appointed Commissioner, as herein provided, shall fail to qualify within ten days after his appointment, the Board of Aldermen may declare his office vacant. No member of the Board of Fire Commissioners shall be eligible for any elective office under the city and county, or State government, during the term for which he was appointed. Immediately after the appointment and qualification of the Commissioners, they shall organize by selecting one of their number as President, and electing or appointing a Secretary; and said Board shall meet at least once in each month, publicly, at their office, on a day named for its stated meetings, to transact the business of the Fire Department; and, in addition to said stated meetings shall meet at least twice in each month, for the purpose of transacting the business of the Department and investigating charges against officers, members and employees.

The person chosen Secretary of said Board of

Fire Commissioners, shall, before entering upon the discharge of his duties, execute a bond, with two or more sureties, in the penal sum of twelve thousand dollars, conditioned for the faithful discharge of his duties, which bond shall be approved by said Board of Fire Commissioners and the Mayor of said city and county. Said Secretary shall give an additional bond whenever directed by the Board of Fire Commissioners. Said Secretary shall attend daily, during office hours, at the office of the Board of Fire Commissioners which shall be the office of the Chief Engineer, Assistant Chief Engineer, and Assistant Engineers; shall perform the duties of Secretary to said Board and Chief Engineer, and such other duties as said Board, from time to time, may prescribe.

SEC. 2. The said Board of Fire Commissioners shall keep a full and correct record of its proceedings, and shall annually, on or before the first day of August, make to the Common Council a full and complete report in writing of the condition of the Fire Department under its care, on the thirtieth day of June of said year, with a detailed statement of the expenditures of the Department for the preceding fiscal year, and showing the expenditures on account of each company separately stated. The said Board shall prepare and submit to the Auditor, on or before the first day of September, in each year, an estimate of the amount that will be required to maintain the said Fire Department during the current fiscal year, which estimate shall be in detail, and shall be reported to the Common Council with his annual estimates, by the Auditor. The Board of Fire Commissioners shall, on the first day of June in each year, or as soon thereafter as is practicable, make out and file with the Clerk of the Common Council a list or statement of all the articles, materials, and supplies of every kind and description whatever, that will be required by the Fire Department during the next ensuing fiscal year. This list or statement shall be certified to by the President and Secretary, and shall include everything required for the Fire Department. No article whatever shall be delivered to the Department for use, or otherwise, except upon the requisition of the Board of Fire Commissioners; and the Clerk of the Corporation Yard shall not deliver any stores or supplies pertaining to said Fire Department, to any officer, member, or employee, except upon an order signed by the President or acting President and Secretary of said Board; *provided*, that pending a conflagration, such material or apparatus as may be required for the purpose of extinguishing such conflagration, may be withdrawn from the Corporation Yard, on an order signed by the Chief Engineer.

SEC. 3. The said Board of Fire Commissioners shall possess full power and authority over the organization, government, and discipline of said Fire Department, and shall have authority to prescribe the duties of the officers, members and employees, subject to the laws and ordinances governing the Department. Said Board shall have the custody and control of the houses, engines, hose-carts, trucks, ladders, horses, telegraph lines, corporation yards, stables, and all other property and equipments belonging to the Fire Department. The Chief Engineer, the Assistant Chief Engineer, the Assistant Engineers, the Superintendent and Assistant Superintendent of Steam Fire Engines, the Secretary, and all members and employees of the Fire Department, shall be appointed by the said Board, and retain their positions during good behavior. No officer, member, or employee of said Fire Department shall be removed for political reasons. It shall be the duty of the said Board to supervise, direct, and control the officers, members and employees of the said Fire Department, and see that they faithfully discharge their duties, and that the laws, ordinances and regulations relating to said Department are carried into operation and effect, and to make all rules and regulations necessary to secure discipline and efficiency in the Department; and, to enable it to enforce such rules and regulations, it shall have power to impose reasonable fines and forfeitures for a violation thereof, and for neglect of duty, or misconduct, and to enforce the collection thereof. All fines and forfeitures collected under the provisions of this section shall be paid to the City and County Treasurer, who shall keep the same in a fund to be known as the "Fund for the Relief of Disabled Firemen;" which said Fund shall be under the control of the Board, which is authorized to disburse the same for the relief of firemen disabled while in the discharge of their duty.

SEC. 4. The Board shall supervise all contracts awarded, and all work being done for the Fire Department, and shall see that all contracts are faithfully executed, and all work faithfully performed. Every claim against the Fire Department shall be approved by the said Board for such amount as it shall deem just, before being presented to the Common Council for payment, and no claim of any character whatever, which rightfully should be charged to the Fire Department, shall be allowed or ordered paid by said Council, until the same has been approved by the said Board, in open session, on a call of the ayes and noes, which approval shall be entered in the minutes of said Board; and a certificate that the claim has been so approved shall be indorsed on the claim, and signed by the President and

Secretary of the Board, before the same can be allowed or ordered paid by the Common Council, audited by the Auditor, or paid by the Treasurer. The Board of Fire Commissioners shall not approve any claim not authorized by the provisions of this Charter; nor shall said Board approve, in any one fiscal year, any claim whatever, other than for salaries, beyond the amount herein authorized to be expended for said fiscal year, for purposes other than salaries.

SEC. 5. The Board of Fire Commissioners shall have power to determine as to the necessity and propriety of constructing cisterns and erecting hydrants in particular localities; also, as to the necessity for new and additional apparatus, and for material, supplies, engine, hose, hook and ladder houses, horses, and also as to the alterations and repairs required, and also as to the necessity for an increase in the number of companies, officers, members, or employees of the Fire Department; but the action of the Board of Fire Commissioners with respect to these matters shall only be advisory to the Common Council; and no increase in the apparatus, material, houses, companies, officers, members, or employees, shall be made, until the same shall have been duly authorized, in the manner hereinafter provided, by the Common Council. The provisions of this section shall also apply to the Fire Alarm and Police Telegraph.

SEC. 6. The Common Council shall not increase the number of the officers, members or employees of the Fire Department, except in the manner herein provided. The salaries and wages to be paid to the officers, members and employees of the Fire Department shall be as is herein-after provided; *provided*, however, that between the first and thirty-first days of May in each year, the Board of Fire Commissioners shall by resolution determine what salaries and wages should be paid to the said officers, members and employees, and thereupon the Common Council shall have power, by ordinance, to adjust and regulate the said salaries and wages, in accordance with said resolution. The Common Council is authorized to appropriate for and on account of the Fire Department any sum that shall be necessary, not exceeding ninety thousand dollars in any one fiscal year, for apparatus, repairs to apparatus and buildings, for hose, horses, horse feed, harness and repairs to same, horse shoeing, and other incidental expenses of the Department; *provided*, the said Council shall not appropriate on account of said Fire Department, for any purpose whatever, exclusive of salaries and wages, any sum in excess of said sum of ninety thousand dollars in any one fiscal year, unless authorized so to do in the manner in this Charter provided. On the recommendation of the

Board of Fire Commissioners for the work, supplies or materials referred to in Section 5, of this Chapter, the Common Council shall have power to award contracts therefor, and thereupon the Board of Fire Commissioners shall enter into the contracts so awarded. The Common Council shall provide and furnish for the use of the Board of Fire Commissioners a suitable room or rooms, in one of the public buildings of said city and county, to serve as an office for their meetings and the transaction of business of the Department. The Secretary and Janitor shall be in attendance at such office daily during office hours. The Chief and his Assistants shall also make it their office daily during office hours, when not otherwise engaged in official duties. The Common Council shall also furnish the Chief Engineer and the Assistant Chief Engineer each with a horse and buggy, and shall provide for the keeping of the same. And the Common Council is also authorized and empowered to establish and maintain at the corporation yard a workshop for making repairs and improvements upon apparatus for the Fire Department—such repairs and improvements to be under the supervision of the Board of Fire Commissioners. And the said Council shall allow and order paid, out of the amount herein allowed to be expended for repairs and other expenses of said Fire Department, the necessary expenses of said workshop. The Common Council, in addition to the sums herein referred to, is authorized and empowered to appropriate and cause to be paid such sums as may be necessary, not to exceed fifteen thousand dollars a year, to pay the salaries of the Superintendent, Operators, and Repairers of the Fire Alarm and Police Telegraph, and for the maintenance, repair and extension of the same, and to defray the cost of instruments and machinery therefor; and for such horses and vehicles as may be necessary for the use of said branch of the Department, for the repair and extension of the Fire Alarm, and Police Telegraph system, and for the cost of new instruments and machinery connected therewith, a sum not exceeding five thousand dollars a year may be appropriated for four years, by the Common Council—provided, that the various telegraph and telephone lines of the city and county shall be under the management and control of the Fire Department.

SEC. 7. The number of companies, the number of officers, members or employees of the Fire Department as herein fixed, shall not be increased, unless such increase is declared necessary by the Board of Fire Commissioners, by a vote of the Commissioners in office at the time the same is acted upon by the Common Council, and so certified to the Common Council, nor until authorized by an ordinance adopted by a vote of three-fourths of all the members

elected to each branch of the Common Council, and approved by the Mayor. The amount which the Common Council may appropriate in any one fiscal year for and on account of the Fire Department, for purposes other than the payment of salaries, as herein provided, may be increased to a sum which with the said sum of ninety thousand dollars shall not exceed one hundred thousand dollars in any one fiscal year, if such increase is demanded by the Board of Fire Commissioners; and such appropriation of such increased amount shall only be authorized by an ordinance passed by a vote of three-fourths of all the members elected to each branch of the Common Council, and approved by the Mayor. And the amount authorized to be appropriated and expended for salaries and maintenance of the Fire Alarm and Police Telegraph may, in like manner, be increased to a sum not exceeding twenty thousand dollars in any one fiscal year.

**SEC. 8.** The officers of the Fire Department of said city and county shall be:

1. The Fire Commissioners to be appointed as aforesaid, without salary.
2. 1 Secretary of the Board of Fire Commissioners, whose salary shall be \$150 per month.
3. 1 Chief Engineer, whose salary shall be \$250 per month.
4. 1 Assistant Chief Engineer, whose salary shall be \$200 per month.
5. 4 Assistant Engineers, whose salaries shall be \$150 per month each—one of whom at least shall be a builder and understand the construction of buildings.
6. 1 Superintendent of Steam Fire Engines, at a salary of \$150 per month.
7. 1 Superintendent of the Fire Alarm and Police Telegraph, at a salary of \$200 per month.

**SEC. 9.** The members and employees of said Fire Department shall be:

1. 1 Assistant Superintendent of Steam Fire Engines, at a salary of \$140 per month.
2. 1 Storekeeper for the Corporation Yard, at a salary of \$125 per month.
3. 1 Corporation Yard Drayman, at a salary of \$75 per month.
4. 1 Night Watchman of the Corporation Yard, at a salary of \$75 per month.
5. 2 Hydrantmen, at a salary of \$~~55~~<sup>90</sup> per month each.
6. 1 Veterinary Surgeon, at a salary of \$100 per month.
7. 25 Foremen, one for each company, and one for the Fire Boat, at a salary of \$45 per month each.
8. 12 Engineers, one for each steam fire engine, at a salary of \$125 per month each.

9. 1 Substitute Engineer and Machinist, at a salary of \$125 per month.
10. 24 Drivers, one for each company, at a salary of ~~\$75~~ <sup>35</sup> ~~90~~ per month each.
11. 12 Firemen, one for each Steam Engine Company, at a salary of \$90 per month each.
12. 1 Carpenter, at a salary of \$80 per month.
13. 4 Tillermen, one for each Hook and Ladder Company, at a salary of \$90 per month each.
14. 9 Stewards, one for each Hose Company, and one for the Fire Boat, at a salary of \$75 per month each.
15. 1 Janitor and Messenger, at a salary of \$75 per month.
16. 96 Hosemen, 8 for each steam fire engine, at a salary of ~~\$20~~ <sup>35</sup> per month each.
17. 48 Hosemen, 6 for each Hose Company, at a salary of ~~\$20~~ <sup>35</sup> per month each.
18. 48 Hook and Laddermen, 12 for each Hook and Ladder Company, at a salary of ~~\$20~~ <sup>35</sup> per month each.
19. 7 Hosemen for the Fire Boat, at a salary of ~~\$20~~ <sup>35</sup> per month each.
20. 3 Operators of the Fire Alarm and Police Telegraph, at a salary of \$125 per month each.
21. 1 Chief Repairer of the Fire Alarm and Police Telegraph, at a salary of \$100 per month.
22. 2 Assistant Repairers of the Fire Alarm and Police Telegraph, at a salary of \$90 per month each.

The men acting as clerks of companies shall be allowed \$5 per month extra pay.

SEC. 10. The Fire Department of the City and County of San Francisco, shall consist of twelve steam fire engines, nine hose, and four hook and ladder companies. As auxiliary to the Department, fire extinguishers may be purchased and employed, if in the judgment of the Board of Fire Commissioners it shall be deemed advisable. The companies of said Department shall be organized as follows: Each steam fire engine company shall consist of one Foreman, one Engineer, one Driver, one Fireman, and eight Hosemen; one of whom shall act as Assistant Foreman, and one as Clerk. Each hook and ladder company shall consist of one Foreman, one Driver, one Tillerman, and twelve Hook-and-Ladder-men; one of whom shall act as Assistant Foreman, and one as Clerk. Each hose company shall consist of one Foreman, one Driver, one Steward, and six Hosemen; one of whom shall act as Assistant Foreman, and one as Clerk. The fire boat shall have one Foreman, one Steward, and seven Hosemen; and shall constitute one of the nine hose companies herein provided.

SEC. 11. The Board of Fire Commissioners shall divide

the said city and county into four districts; and assign one of the Assistant Engineers to each of such districts. Each Assistant Engineer shall reside in the district to which he has been assigned, and be immediately responsible for the condition of the apparatus and the discipline of the men in said district.

SEC. 12. The Chief Engineer shall be the executive officer of said Fire Department, and it shall be his duty (and that of the Assistant Chief Engineer and Assistant Engineers) to see that the laws, orders, rules, regulations, and ordinances concerning the same are carried into effect, and also to attend to such duties as Fire Wardens as may be prescribed by the Board of Fire Commissioners, and to see that all laws, orders, and regulations established in said city and county to secure protection against fire are enforced. It shall be the duty of the Chief Engineer to enforce the rules and regulations made from time to time to secure discipline in said Fire Department. He shall have power to suspend any subordinate officer, member, or employee for a violation of the same; and shall forthwith report in writing, what he has done, with his reasons therefor, to the Board of Fire Commissioners for its action. He shall diligently observe the condition of the apparatus and workings of said Department, and shall report in writing, at least once in each week, to said Board of Fire Commissioners, upon the same, and make such recommendations and suggestions respecting it, and for securing its greater efficiency, as he may deem proper; and in the absence or inability of the Chief Engineer to act, the Assistant Chief Engineer shall assume and perform all the duties of Chief Engineer. The Chief Engineer shall have authority to appoint one member of each company to act as assistant foreman, and also one member to act as clerk.

SEC. 13. The Chief Engineer, or in his absence the Assistant Chief Engineer, or in the absence of both of these officers, either Assistant Engineer of the Fire Department, with the concurrence of the Mayor or Chief of Police, may cause to be cut down and removed, or to be blown up with powder, or otherwise, any building, erection, or fence, for the purpose of checking the progress of any fire.

SEC. 14. The Storekeeper of the Corporation Yard shall, before entering upon his duties, give a bond in the sum of ten thousand dollars, with two good and sufficient sureties, to be approved by the Board of Fire Commissioners, conditioned for the faithful discharge of his duties, which bond shall be filed with the City and County Auditor. Said Board may require additional bonds, whenever it shall be deemed necessary. Said Storekeeper

shall receipt in duplicate for all articles placed in his charge, and immediately enter the same in a book to be kept in his office for the purpose. One of said receipts shall be filed with the Secretary of the Board of Fire Commissioners. Said Storekeeper shall take duplicate receipts for all articles delivered by him for use in the Department, and file one of said receipts with the Secretary of said Board. On the first day of each and every month, said Storekeeper shall file in the office of the Board a statement of the articles received during the preceding month; a list of the articles delivered for use in the Department during the same time, with the names of the officer and company to whom delivered; a full and complete inventory of the articles in his custody, and also a list of articles that will be required to enable him to supply the Department during the ensuing month.

SEC. 15. There shall be maintained by the Common Council in said city and county, a Fire Alarm and Police Telegraph, which shall be in charge of the Board of Fire Commissioners, who shall appoint, regulate, and control the employees thereof in like manner with other employees of the Fire Department.

SEC. 16. Whenever a member of the Fire Department of said city and county shall become disabled by reason of injuries received at any fire, so as to be unable to perform his duties, the Common Council, upon the recommendation of the Board of Fire Commissioners, is hereby authorized to allow said disabled man a sum not exceeding fifty dollars per month, for not to exceed three months, payable out of the General Fund.

SEC. 17. No person, except clerks of companies, as herein provided, shall hold more than one position under said Board of Fire Commissioners, or under said city and county, or under the State or Federal Government, or draw more than one salary for services performed. In all investigations, the President of the Board of Fire Commissioners shall have power to issue subpoenas, and the Board shall have power to compel the attendance of witnesses before it by attachment or otherwise. All subpoenas issued by the President shall be served by any police officer, or any peace officer, of said city and county. Any person who refuses to attend or testify, in obedience to such subpoenas, shall be deemed guilty of contempt, and punished by the Board, as in cases of contempt in Justices' Courts in civil cases. Either member of the Board may administer oaths and affirmations.

SEC. 18. The Chief Engineer, Assistant Chief Engineer, the Assistant Engineers, the Superintendent and Assistant

Superintendent of Steam Fire Engines, while on duty, shall be deemed public peace officers, and shall be vested with all the powers of arrest and detention, and other constabulary authority vested in police officers.

SEC. 19. The Mayor, upon the recommendation of the Board of Fire Commissioners, with the approval of the Common Council, is authorized to sell, at public sale, from time to time, any or all of the engines, hose-carriages, engine houses, engine lots, or other property of the Fire Department, which shall not be required for the use of the Department, and to execute good and sufficient bills of sale or conveyances for the same, which he shall deposit with the Treasurer. The proceeds of such sales shall be paid into the City and County Treasury, to the credit of the General Fund; said bill of sale or conveyance to be delivered by the Treasurer only upon the receipt of the consideration specified therein.

SEC. 20. In the event that said Fire Department shall become crippled by reason of the destruction or injury beyond repair of any of the apparatus belonging to said Department, the Common Council may, on the recommendation of the Board of Fire Commissioners, replace such destroyed or injured apparatus, and appropriate for such purpose so much money as may be necessary, in addition to the money which is herein authorized to be expended for the use of said Department.

SEC. 21. The Fire Commissioners shall not, nor shall either of them, or any officer, member, or employee of the Fire Department of the city and county of San Francisco, be interested, directly or indirectly, in any contract for work, labor, or materials of any kind or description whatsoever, done or to be done, furnished or to be furnished, to the said Fire Department, and every such contract shall be void; nor shall any of them receive any gratuity or advantage from any contractor, laborer, or person performing labor for, or furnishing materials to, said Department. A violation of the provisions of this section shall be a misdemeanor.

SEC. 22. No member of said Board shall, during his term of office, be a member of any convention held for political purposes; nor shall the officers, members, or employees of said Fire Department take any part whatever in any convention held for the purposes of a political party; nor shall any member of the said Board, directly or indirectly, control or attempt to control or influence the action of any officer, member, or employee of said Fire Department, at any primary or other political election. No officer, member, or employee of the Fire Department

shall levy, collect, or pay any amount of money as an assessment or contribution for political purposes. A violation of the provisions of this section shall be deemed a misdemeanor.

## ARTICLE VIII.

### **Health Department.**

#### CHAPTER I.

##### OF THE BOARD OF HEALTH.

**SECTION 1.** The Health Department of the City and County of San Francisco, shall be managed, directed and controlled by a Board of Health. The Board of Health shall consist of five members, who shall possess the same qualifications for eligibility as are herein provided for the Mayor; three of whom shall be physicians in good standing, and graduates from some regular medical school, and of the others, one shall be skilled in sanitary engineering. They shall be appointed without respect to politics, and shall hold their office for the term of four years from the date of their appointment, and until their successors are appointed and qualified; *provided*, that the present members of the Board of Health (other than the Mayor) shall continue to hold their office until the expiration of their respective terms of office; and *provided, further*, that the first appointments to be made under this Charter shall be so made that one of the physicians so to be appointed shall go out of office on the first day of January, A. D. 1885, and one of the other physicians on the first day of January in each of the succeeding years; and that the other two appointees shall go out of office on the first day of January, A. D. 1888. The members of the Board of Health shall receive no salary or compensation for their services.

**SEC. 2.** The Board shall elect one of its members as President, and shall appoint a Secretary, who shall be a physician in good standing and a graduate from some regular medical school, whose duty it shall be to keep a record of the proceedings of said Board, and to act as Secretary for the Health Officer, and keep the records and documents of the Health Office, and perform such other duties as may be prescribed by said Board, or by the Health Officer. The office of the Board of Health shall be known as the Health Office. The Board shall hold a meeting at said Office at least once a month and as often as the public good may require. The meetings of the Board shall be public, and its records shall be open to the inspection of any citizen.

**SEC. 3.** The Board of Health is hereby invested with general jurisdiction over all matters appertaining to the sanitary condition of the city and county, and over all quarantine regulations and the enforcement thereof, and over all hospitals and alms houses belonging to said city and county, and all municipal institutions created and maintained for charitable purposes within the corporate limits of the city and county, and may adopt such orders and regulations as may be necessary to the complete exercise of such jurisdiction. It shall appoint a Health Officer and Quarantine Officer, and all the officers and employees of the Health Department; and may remove the same at pleasure, and shall prescribe the duties of such officers and employees.

**SEC. 4.** The Health Officer and the Quarantine Officer shall each be a graduate of a regular medical school in good standing, and a citizen and resident for three years of the city and county of San Francisco. The Health Officer shall be the executive officer of the Board, and it shall be his duty to see that the ordinances of the city and county in relation to the public health, and the rules and regulations of said Board of Health are enforced. He shall also perform such other duties as the Board may prescribe. The Quarantine Officer shall cause to be observed and enforced all the provisions of this Charter and the laws of the State in reference to quarantine, and the rules and regulations of the Board, and all ordinances of the city and county, in relation to public health.

**SEC. 5.** The Health Officer and the Quarantine Officer must each execute an official bond, with two sureties, to be approved by the Board of Health, in the sum of five thousand dollars, conditioned for the faithful performance of their official duties. The Secretary of the Board must execute an official bond, with two sureties, to be approved by the Board of Health, in the sum of two thousand five hundred dollars.

**SEC. 6.** The officers and employees of the Health Department shall be:

1. One Health Officer, at a salary of three thousand dollars a year.
2. One Quarantine Officer, at a salary of eighteen hundred dollars a year.
3. One Secretary, at a salary of eighteen hundred dollars a year.
4. One Assistant Secretary, at a salary of twelve hundred dollars a year.
5. Six Health Inspectors and one Market Inspector, at a salary of nine hundred dollars a year each.

6. One Messenger, at a salary of six hundred dollars a year.

7. One City Physician, at a salary of twenty-four hundred dollars a year.

8. One Physician for the House of Correction and the Industrial School, who must reside at one of said institutions, at a salary of twelve hundred dollars a year.

**FOR THE CITY AND COUNTY HOSPITAL.**

9. - One Resident Hospital Physician, at a salary of twenty-four hundred dollars a year.

10. One Hospital Steward, at a salary of twelve hundred dollars a year.

11. One Hospital Matron, at a salary of seven hundred and twenty dollars a year.

12. One Hospital Apothecary, at a salary of twelve hundred dollars a year.

13. One Hospital Engineer, at a salary of nine hundred dollars a year.

14. One First Cook, at a salary of sixty dollars per month.

15. One Second Cook, at a salary of thirty-five dollars per month.

16. One Third Cook, at a salary of thirty dollars per month.

17. One Baker, at a salary of sixty dollars per month.

18. One Clerk, at a salary of forty dollars per month.

19. One Ambulance Driver, at a salary of forty dollars per month.

20. Sixteen Nurses, at a salary of thirty dollars per month each.

21. One Pot Washer, at a salary of twenty-five dollars per month.

22. One Keeper of Morgue, at a salary of ten dollars per month.

23. Three Waiters, at a salary of thirty dollars per month each.

24. One Laundryman, at a salary of forty dollars per month.

25. Three Laundrymen, at a salary of thirty dollars per month each.

26. One Driver, at a salary of forty dollars per month.

27. One Gardener, at a salary of thirty dollars per month.

28. One Gate Keeper, at a salary of thirty dollars per month.

29. One Mattress Maker, at a salary of twelve dollars per month.

The Board of Health is hereby authorized to appoint additional employees, whose salaries in the aggregate shall not exceed five thousand dollars a year.

## FOR THE ALMS HOUSE.

30. One Alms House Superintendent, at a salary of two thousand four hundred dollars a year.
31. One Resident Alms House Physician, at a salary of eighteen hundred dollars a year.
32. One Matron, at a salary of sixty dollars per month.
33. One Clerk, at a salary of forty dollars per month.
34. One Nurse, at a salary of forty dollars per month.
35. Three Nurses, at a salary of thirty dollars per month each.
36. One Steward, at a salary of thirty dollars per month.
37. One First Cook, at a salary of fifty dollars per month.
38. One Second Cook, at a salary of thirty-five dollars per month.
39. Two Cooks, at a salary of thirty dollars per month each.
40. One Ambulance Driver, at a salary of forty dollars per month.
41. Two Watchmen, at a salary of thirty dollars per month each.
42. One Farmer, at a salary of fifty dollars per month.
43. One Teamster, at a salary of forty dollars per month.
44. One Engineer, at a salary of seventy-five dollars per month.
45. One Tailor, at a salary of fifty dollars per month.
46. One Shoemaker, at a salary of fifty dollars per month.
47. One Baker, at a salary of fifty dollars per month.
48. One Laundryman, at a salary of fifty dollars per month.
49. One Carpenter, at a salary of fifty dollars per month.

The Board of Health may also when necessary appoint one Physician for the Small-pox Hospital, at a salary of one hundred and fifty dollars per month; and also an assistant Apothecary for the City and County Hospital, at a salary of seventy-five dollars per month.

The salaries and wages to be paid to the officers and employees of the Health Department shall be as hereinbefore prescribed; *provided*, however, that between the 1st and 31st days of May of each year the Board of Health shall, by resolution, fix and determine the salaries and wages of all the officers and employees of the Health Department; *provided*, further, that in no case shall such salaries or wages be fixed at a greater sum than is herein named.

SEC. 7. The Board of Health may appoint such number of Visiting Physicians and Surgeons as the service of the Hospitals may require, to serve without pay. Such Visiting

Physicians and Surgeons shall be selected upon the recommendation of the Faculties of such regular Medical Colleges as now exist, or may hereafter exist in said city and county.

SEC. 8. The Board of Health may appoint to the City and County Hospital, three house physicians and three house surgeons, to serve for a period not to exceed one year. They shall be graduates in good standing, from some regular medical school, and shall be furnished board, lodging and washing in said Hospital, and shall serve without pay, under the direction of the Resident Hospital Physician. Such physicians and surgeons shall be selected on competitive examination. The medical members of the Board of Health shall constitute a Board to make such examinations.

SEC. 9. No paid officer or employee of the Board of Health shall receive any compensation or perquisite of any description, either directly or indirectly, other than the salary designated in this Charter; *provided*, that this clause shall not be construed so as to prevent the Health Officer, the Quarantine Officer and the City Physician from the ordinary practice of their profession; and it shall be the duty of the Board of Health to remove any officer or employee, who violates any provision of this section. All fees collected by any officer or employee of the Board of Health, shall be immediately paid by such officer or employee, to the Secretary of said Board, who shall immediately pay the same into the Treasury.

SEC. 10. The salaries of the officers and employees of the Health Department, and all other expenses incurred by said Board under the provisions of this Charter, shall be paid out of the General Fund, and all claims therefor shall be signed by the President of the Board of Health and countersigned by the Secretary, and upon the presentation of such claims shall be audited by the Auditor, and thereupon paid by the Treasurer. Every demand shall have indorsed upon it a certificate, signed by the Secretary, of its approval by the Board, showing the date thereof, the names of the members of said Board voting for its approval, and the particular chapter, section and subdivision of this Article authorizing the said demand. Each person in the employ of the Health Department entitled to a salary therefrom shall be granted a certificate for the amount found due and approved by the Board, which shall be signed by the President and Secretary of the Board; but the entire monthly salary roll of the Department shall be made up by the Secretary of the Board, and shall be presented at a regular meeting of the Board for its approval, and if approved by a vote of three of the members of said Board, shall be indorsed with its approval, and the signature of said Secretary. The salary roll thus approved and indorsed shall be by the Secretary

transmitted to the Auditor for comparison with the individual salary certificates issued as hereinbefore provided; but the payment shall be made only on the individual certificates.

SEC. 11. The Board of Health shall annually, on or before the first day of September, transmit in writing to the Auditor an estimate of the amount of money necessary to defray all of the expenditures of said Health Department for the current fiscal year; and the Board shall not expend in any one fiscal year an amount exceeding the amount allowed by the Common Council for that fiscal year; *provided*, that in case of an epidemic, said Board of Health is hereby authorized, with the concurrence of the Common Council, expressed by ordinance, passed and approved in the manner provided in Section 11, Chapter III, Article II of this Charter, to expend such additional sums as may be necessary for the public safety, and all such expenses shall be payable out of the General Fund in the same manner as is provided for other expenses of said Board. Nothing in this Charter shall be construed to authorize said Board to contract for or purchase any supplies whatever.

SEC. 12. The members of the Board of Health, the Health Officer, the Quarantine Officer and the Secretary of the Board of Health, are hereby authorized to administer oaths in all matters connected with the Health Department.

SEC. 13. Whenever any cause of action arises under any provision of this Article, or any ordinance relating to the Health Department, suit may be maintained thereon in the name of the City and County of San Francisco.

## CHAPTER II.

### OF QUARANTINE.

SECTION 1. Shipmasters bringing vessels into the harbor of said city and county, and all masters, owners, or consignees having vessels in said harbor, which have on board any case of Asiatic cholera, small-pox, yellow, typhus, ship fever, or any other contagious disease, must report the same, in writing, to the Quarantine Officer before landing any passengers, casting anchor, or coming to any wharf, or as soon thereafter as they or any of them become aware of the existence of any of said diseases on board their vessels.

SEC. 2. No captain or other officer in command of any vessel sailing under a register, arriving at the port of San Francisco, nor any owner, consignee, agent, or other person having charge of such vessel, shall, under a penalty of not less than one hundred dollars nor more than one thousand dollars, land, or permit to be landed, any passengers,

or other persons, or freight, from such vessel, until he has reported to the Quarantine Officer, presented his bill of health, and received a permit from that officer to land passengers and other persons, or freight.

**SEC. 3.** No captain, or other officer in command of any passenger-carrying vessel of more than one hundred and fifty tons burden having passengers on board, nor any consignee, owner, agent, or other person having charge of such vessel or vessels, shall, under a penalty of not less than one hundred dollars, nor more than one thousand dollars, land, or permit to be landed, any passenger from the vessel, until he has presented his bill of health to the Quarantine Officer and received a permit from that Officer to land such passenger, except in such cases as the Quarantine Officer deems it safe to give the permit before seeing the bill of health.

**SEC. 4.** No passenger or other person shall leave any vessel while the same is in quarantine or under the directions of the Quarantine Officer, without the written permission of said Quarantine Officer; nor shall any person without such permission board or go upon such vessel while the same is in quarantine or under the directions of the Quarantine Officer. Any violation of the provisions of this or of the two preceding sections, shall be a misdemeanor.

**SEC. 5.** Every pilot who conducts into the Port of San Francisco any vessel subject to Quarantine, or examination by the Quarantine Officer, must:

1. Bring the vessel no nearer said port than is allowed by law.

2. Prevent any person from leaving such vessel, and any communication being made with the vessel under his charge, until the Quarantine Officer has boarded her and given the necessary orders and directions.

3. Be vigilant in preventing any violation of the quarantine laws, and report to the Quarantine Officer, without delay, all such violations that come to his knowledge.

4. Present the master of the vessel with a printed copy of the quarantine laws.

5. If the vessel is subject to Quarantine, by reason of infection, place at the mast-head a yellow flag.

**SEC. 6.** Every master of a vessel subject to Quarantine or visitation by the Quarantine Officer, arriving in the Port of San Francisco, who refuses or neglects either:

1. To proceed with and anchor his vessel at the place assigned for Quarantine, when legally directed so to do; or,

2. To submit his vessel, cargo, passengers and crew to the inspection, examination, and direction of the Quarantine Officer, and furnish all necessary information to enable that officer to determine to what quarantine or other regulations they may respectively be subject; or,

3. To report all cases of diseases, and of death, occurring on his vessel, and to comply with all the sanitary regulations of said port or harbor; is liable in the sum of five hundred dollars for every such neglect or refusal.

SEC. 7. All vessels arriving off the Port of San Francisco from ports which have been reported to be infected ports, and all vessels arriving from ports where there is prevailing, at the time of their departure any contagious, infectious or pestilential disease, and all vessels with decaying cargoes, or which have unusually foul or offensive holds, are subject to quarantine, and must be, either by the master, owner, pilot, or consignee, reported to the Quarantine Officer without delay. No such vessel shall pass within the bounds prohibited by the Board of Health, until the Quarantine Officer has boarded her and given permission therefor.

SEC. 8. The Quarantine Officer must board every vessel subject to quarantine or visitation by him, immediately on her arrival, make such examinations and inspection of vessel, books, papers, or cargo, of persons on board, under oath, as he may judge expedient, and determine whether the vessel should be ordered to quarantine, and if so, the period of quarantine. No vessel subject to quarantine can pass a line drawn from the foot of Powell street to Alcatraces Island until boarded by the Quarantine Officer.

SEC. 9. The Board of Health shall establish quarantine grounds at such points and places as in its judgment may best conduce to public safety; may provide suitable quarantine hospitals whenever the same are required for the public safety and furnish and supply the same with nurses and remove thereto all persons afflicted with cholera, small-pox, yellow, typhus, ship fever, or other contagious disease.

SEC. 10. The Board of Health may enforce compulsory vaccination on passengers on variola-infected ships, or coming from ports infected with the same.

SEC. 11. The Health Officer may, at his discretion, cause the removal to a hospital of any and all persons within the limits of the City and County of San Francisco infected with variola.

SEC. 12. Whenever it shall be certified to the Board of Health by the Health Officer that any building, or part thereof, is unfit for human habitation, by reason of its being so infected with disease as to be likely to cause sickness among the occupants, the Board may issue an order and cause the same to be affixed conspicuously on the building or part thereof, and to be personally served upon the occupant or occupants, requiring them to vacate such building for the reasons to be stated in said order. It shall be the duty of said Board, when the reason for said order shall have ceased to exist, to revoke and recall the same.

CHAPTER III.  
OF BIRTHS AND DEATHS.

SECTION 1. The Board of Health shall cause to be kept a record of all births, deaths and interments occurring in said city and county. Such records must be kept in the Health Office, and shall be open for the inspection of any citizen during office hours. The Health Officer shall, on the first Monday of each month, furnish to the Registrar of Elections a transcript of the deaths in the city and county during the preceding month, of all males (other than Mongolians) over the age of twenty-one years, giving the name, age, nativity, and last place of residence, by street and number, of each of said decedents.

SEC. 2. Physicians and midwives must, on or before the fourth day of each month, make a return to the Health Officer of all births, deaths, and the number of still-born children occurring in their practice during the preceding month. In the absence of such attendants, the parents must make such report within thirty days after the birth of the child. Such returns must be made in accordance with rules adopted by, and upon blanks furnished by, the Board of Health. Any person named herein, failing to comply with the provisions of this section, shall be guilty of a misdemeanor.

Sec. 3. Every physician in said city and county shall report to the Health Officer, in writing, every patient he shall have laboring under Asiatic cholera, variola, yellow, or ship fever, immediately thereafter, and shall report to the same officer every case of death from such disease.

SEC. 4. Every householder, in said city and county, shall forthwith report, in writing, to the Health Officer, the name of every person boarding, or an inmate of his or her house, whom he or she shall have reason to believe sick of cholera, yellow fever or small-pox, and any deaths occurring at his or her house from such disease. Any person violating any of the provisions of this or of the preceding section shall be guilty of a misdemeanor.

SEC. 5. No person shall deposit in any cemetery, or inter in said city and conuty, any human body, without first having obtained and filed with the Health Officer a certificate, signed by a physician, midwife, or coroner, setting forth, as near as possible, the name, age, color, sex, place of birth, occupation, date, locality and the cause of death of deceased, and obtained from such Health Officer a burial permit. Physicians, when death occurs in their practice, must give the certificate herein mentioned. It shall be the duty of the Board of Health to see that the dead body of a human being is not allowed to remain in any public receiving vault for a longer period than five days. At the expiration of that

time it shall cause the body to be buried, or to be placed in a vault, or niche, constructed of brick, stone, or iron, and hermetically sealed. It shall also be the duty of said Board to require all persons having in charge the digging of graves and the burial of the dead, to see that the body of no human being who has reached ten years of age shall be interred in a grave less than six feet deep; or if under the age of ten years, the grave to be not less than five feet deep. The Board of Health shall have entire charge of all cemeteries belonging to said city and county, and may employ a Superintendent thereof, at a salary of seventy-five dollars per month, to be paid out of the General Fund, and shall also have general supervision of all cemeteries in said city and county.

SEC. 6. Superintendents of all cemeteries in said city and county must return to the Health Officer, on each Monday, the names of all persons interred, or deposited, within their respective cemeteries during the preceding week; and no Superintendent of a cemetery, or any other person, can remove, or cause to be removed, disinter, or cause to be disinterred, any human body or remains that have been deposited in a cemetery, without a permit therefor from the Health Officer, or by order of the Coroner.

SEC. 7. It shall be unlawful to disinter or exhume from a grave, vault, or other burial place within the limits of said city and county, the body or remains of any deceased person, unless a permit for so doing shall have been first obtained from the Health Officer of said city and county; nor shall any body or remains disinterred, exhumed, or taken from any grave, vault, or other place of burial or deposit, be transported in or through the streets or highways of said city and county, unless the person or persons transporting such body or remains shall first obtain from the Health Officer a permit, in writing, therefor. When an applicant for a permit to disinter a body shall desire to remove said body beyond the limits of said city and county, and shall so state on making application, the permit, if the same be issued, shall include the right to disinter and remove, and said permit shall accompany the body or remains.

SEC. 8. Permits to disinter or exhume the bodies or remains of deceased persons, and to transport or remove the same, as in the last section provided, may be granted in the discretion of the Health Officer, and under such restrictions and conditions as the Board of Health may prescribe. The Health Officer shall prepare a book of blank permits, in proper form, and consecutively numbered, containing stubs, on which, as well as in the permit, shall be entered a record of the transaction, giving the name, age, sex, nativity,

date of death, place of burial, and destination of remains to be transported or removed. And upon granting each permit, he shall require to be paid to him the sum of five dollars therefor, for the use and benefit of the General Fund of said city and county.

SEC. 9. Any person or persons who shall disinter, exhume, transport or remove, or cause to be disinterred, exhumed, transported or removed from a grave, vault, or other receptacle or burial place, the remains of a deceased person, without a permit therefor from such Health Officer, or who shall transport, or cause to be transported, on or through the streets or highways of said city and county, the body or remains of a deceased person, which has been disinterred or exhumed, without such permit, shall be guilty of a misdemeanor.

SEC. 10. Nothing in this Chapter contained shall be taken to apply to the removal of the remains of a deceased person from one place of interment to another place of interment within the same cemetery.

SEC. 11. No person shall receive for transportation, or shall transport upon any boat, vessel, or railroad car, or public or private conveyance, the body of any person who has died within the limits of said city and county, without said body is accompanied by a permit for such transportation from the Health Officer; and no person shall bring into, or transport through said city and county the dead body or remains of any person, unless it be accompanied with a certificate from some proper authority (if any such there be) of the place whence it came, stating name, age, sex, and cause of death, which certificate shall be immediately filed at the Health Office; *provided*, that in no case shall the body of any person who died of contagious disease be brought to said city and county within one year after the day of death. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

SEC. 12. No burial or interment of any human body shall hereafter be made in any place within the city and county of San Francisco, except in the cemeteries now organized and appropriated to burial purposes; and from and after the year one thousand eight hundred and eighty-five, no human body shall be buried in any place within the said city and county, within six miles of the New City Hall.

## ARTICLE IX.

### **School Department.**

#### CHAPTER I.

##### OF SCHOOLS.

**SECTION 1.** The School Department of the city and county of San Francisco shall include all the public schools thereof, whether supported by State, poll, or city and county taxes, or by any other source whatsoever; and shall include Primary and Grammar Schools, and may, at the option of the Board of Education, include Evening, Technical, Cosmopolitan, High and Normal Schools.

**SEC. 2.** Instruction shall be furnished free of expense to all children residing in the city and county of San Francisco, in such branches as the Board of Education may determine, but which must include instruction necessary for a common school education, and may include the higher branches taught in the Grammar, High, and Normal Schools of the said city and county.

**SEC. 3.** All children between the ages of six and fourteen, residing within the limits of the city and county of San Francisco, are entitled to receive the benefits of a common school education, and all minors older than fourteen may be instructed in such higher branches of education as may be established or provided by the Board of Education; but the Board of Education shall have no power to establish or maintain schools for instruction in the higher branches of education until full and ample facilities are provided for instruction in the elementary, primary and grammar classes of the public schools.

**SEC. 4.** The Board of Education may, in its discretion, establish Kindergarten Schools for the tuition of children between the ages of three and six years.

#### CHAPTER II.

##### OF THE BOARD OF EDUCATION.

**SECTION 1.** The School Department shall be under the control and management of a Board of Education, which shall be composed of eight School Directors to be appointed by the Mayor, without respect to party politics, and by preference from heads of families, by and with the consent of the Board of Aldermen, and who shall hold office for four years, and until their successors are appointed and qualified.

**SEC. 2.** The first Board of Education shall be classified by the Mayor, as follows : Two Directors shall be appointed for one year; two for two years; two for three years, and

two for four years, which shall be the official term of the Directors so appointed.

SEC. 3. The School Directors shall receive no salary, nor shall they be pecuniarily interested, directly or indirectly, in any supplies furnished or work done for the School Department.

SEC. 4. Immediately after the appointment and qualification of the School Directors, they shall meet and organize by electing one of their number President, and shall also elect a Secretary, who shall not be a member of the Board.

SEC. 5. The Board of Education thus organized shall meet monthly, and at such other times as it may determine. Five members shall constitute a quorum to transact business, but a smaller number may adjourn from time to time.

SEC. 6. The Board of Education shall determine the rules of its proceedings, but five votes shall be required to carry any measure, and the ayes and noes shall be taken when demanded by any two members, and spread on the records of the Board.

SEC. 7. Within thirty days after the organization of the Board of Education, the said Board shall elect four qualified persons who shall hold office during the pleasure of the said Board, and who, together with the Superintendent of Common Schools, shall form a Board of Inspectors of Common Schools.

SEC. 8. All sessions shall be public, and the records of the Board shall be open to public inspection.

### CHAPTER III

#### OF THE POWERS OF THE BOARD OF EDUCATION.

SECTION 1. The Board of Education shall have power :

- 1st. To establish school districts, and to fix and alter the boundaries thereof.
- 2d. To establish and maintain public schools, as provided for in this Charter, and to change, modify, consolidate, and discontinue the same, as the public good may require.
- 3d. To employ, pay and dismiss such persons as may be necessary to carry into effect the powers and duties of the Board of Education, and to fix, alter, and allow paid their salaries and compensation; and to withhold for good and sufficient cause the whole or any part of the wages, salaries, or compensation of any person or persons employed as aforesaid; provided, however, that no teacher shall be employed, or dismissed, except on the recommendation of the Board of Inspectors of the Common Schools.

- 4th. To make, establish, and enforce all necessary rules and regulations for the government and efficiency of the schools, and for carrying into effect the school system; to prevent and remedy truancy, and to reform truants, and for the care of children between the ages of five and thirteen, without lawful occupation, who may be found wandering about the streets or in public places.
- 5th. To investigate all charges of misconduct or dereliction of duty on the part of any person connected with, or in the employ of the School Department; to administer oaths, take testimony; to summon and enforce the attendance of, and examine witnesses before the Board, or a member or a committee thereof. Any person summoned and refusing to attend and testify shall be deemed guilty of misdemeanor, and any person testifying falsely shall be guilty of perjury.
- 6th. To provide for the School Department all supplies and material necessary for use in the schools, or in the offices of the Board or the Superintendent, and to incur incidental expenses not exceeding two hundred dollars per month.
- 7th. To build, alter, repair, rent, and provide school houses, and to furnish them with proper school furniture, apparatus and school appliances; to use and control such buildings as may be necessary for the requirements of the Department, and to insure such school property as may be deemed advisable.
- 8th. To receive, purchase, lease, and hold in fee, in trust for the city and county of San Francisco, any and all real estate and personal property that may have been or which hereafter may be acquired, for the use and benefit of the schools of said city and county.
- 9th. To grade, fence, and improve school lots.
- 10th. To sue, in the name of the Board of Education, for any and all lots, lands and property belonging to or claimed by the School Department of said city and county, and to prosecute and defend all actions at law or special proceedings or suits in equity concerning the enjoyment and possession of said lots, lands and property, and to require the services of the City and County Attorney in all such actions, suits and proceedings.
- 11th. To establish regulations for the just, economical and equal disbursement of all moneys belonging to the School Department or to the Common School Fund, and strict accountability in the expenditures

thereof; to provide for the prompt payment, on the second Tuesday of each month in every year, of all salaries due and allowed teachers and other employees of the School Department; and for this purpose it shall be the duty of the Auditor to segregate annually so much of the Common School Fund as shall not exceed twenty-two dollars for each pupil in average daily attendance in the public schools of said city and county and which amount within said limit of twenty-two dollars, it shall be the duty of the Board of Education to ascertain and determine, and transmit to the Auditor on or before the second Monday in September of each year. Any surplns from said segregated salary fund shall be annually carried to the credit of the Common School Fund.

12th. To dispose of and sell such personal property used in the schools as shall no longer be required; and all moneys realized by such sales shall be paid into the Treasury to the credit of the Common School Fund.

13th. To lease for the benefit of the Common School Fund, for a term not exceeding ten years, any property of the School Department not required for school purposes.

14th. To receive and manage property or money acquired by bequest or donation, in trust for the benefit of any school, educational purpose, or school library.

15th. To do and perform such other acts as may be necessary and proper to carry into force and effect the powers conferred upon such Board of Education.

SEC. 2. The President of the Board of Education, the Chairman of the Finance Committee of said Board, and the Secretary thereof, shall have power to administer oaths or affirmations concerning any demands upon the Treasury payable out of the Common School Fund, or other matters relating to their official duties or to this Department.

SEC. 3. It shall be the duty of the Board of Inspectors to make quarterly reports to the Board of Education of the condition of the schools throughout the city and county.

SEC. 4. It shall be the duty of the Board of Education to furnish all necessary supplies for the public schools. All supplies, books, stationery, fuel, printing, goods, material, building, repairs, merchandise, and every other article and thing supplied to or done for the public schools, or any of them, when the expenditure to be incurred on account of any such matter may exceed one hundred dollars,

shall be done or furnished by contract let to the lowest responsible bidder, after advertisement by the Secretary of the Board of Education.

SEC. 5. It shall be the duty of the Board of Education, annually, on the first day of July, or within five days thereafter, to make a list of supplies required by the School Department for the current year, stating in clear and explicit terms the quantities and kinds of all articles needed and how and when to be delivered, and to invite proposals for furnishing the same by advertising said list, with the conditions thereto appended, for at least five consecutive days, in not less than two daily newspapers published in the city and county of San Francisco, one of which shall be the official newspaper.

All bids or proposals shall be opened and contracts awarded by the Board of Education, who shall enter into a contract with the party to whom the same is awarded, and shall exact and take bonds for the faithful performance of said contract.

All bids or proposals must be made on blanks furnished by the Board of Education, and any bidder may bid on any one or more articles specified in the list.

All bids must be sealed and delivered by the bidder to, and opened by, the Board of Education, in open session, at the office of said Board on a day and at an hour to be stated in the advertisement for proposals, in the presence of all bidders who may attend, and the bidders may inspect the bids.

All bids with alterations or erasures shall be rejected, and each bid shall have the affidavit of the bidder thereon that the bid is made in good faith, and is genuine and not collusive or sham; that he has not colluded, conspired, connived, or agreed, directly or indirectly, with any other bidder or person, to put in a sham bid, or that such other person shall refrain from bidding, or in any manner sought, by collusion with others, to secure any advantage against the city and county, or the School Department thereof for himself or for any other person whomsoever.

Making a false affidavit to a bid shall constitute the crime of perjury.

Any contract made in violation of any of the foregoing provisions shall be absolutely void, and never form the basis of, or be a claim against the school or any other fund of said city and county.

A certified check or a certificate of deposit on a solvent bank, in the city and county of San Francisco, for such amount as the Board of Education may determine, shall accompany the bid.

The Board of Education may reject all bids, if in its

opinion the public good demands it; and the bid of any person who may have been delinquent or unfaithful in any contract with said city and county, or said Board, shall not be entertained.

In the event of the bids being rejected, the Board shall republish invitations for proposals.

SEC. 6. Any School Director, officer, or other person officially connected with the School Department, or drawing a salary from the Board of Education, who shall, while in office or so connected or drawing salary, be interested, either directly or indirectly in, or who shall gain any advantage or benefit from any contract, payments under which are to be made in whole or in part of the moneys derived from the Common School Fund, or raised by taxation or otherwise for the support of the public schools, shall be deemed guilty of felony, and this provision shall not be construed to relieve such persons from any other penalty, but shall be deemed cumulative to other penalties and disabilities as to such acts and offenses.

SEC. 7. The Board of Education shall make and transmit, between the fifteenth day of July and the first day of August in each year, to the State Superintendent of Public Instruction, and to the Common Council of said city and county, a report in writing for the preceding fiscal year, stating the whole number of schools within their jurisdiction; the length of time they have been kept open; the number of pupils taught in each school; the daily average attendance of pupils in all the public schools; the number of teachers; the amount of money drawn from the Treasury by the Department during the year—distinguishing the amounts drawn from the general funds of the State from all others; and from what sources, and the manner and purposes in which such money has been expended, with particulars; and such other information as may be required from them by the State Superintendent, the Common Council, or either Board thereof, or the Mayor.

SEC. 8. The Board of Education shall between the 1st and 31st day of May, of each year, fix the salary of every teacher or other employee of the School Department, to take effect on the first day of July following.

#### CHAPTER IV.

##### OF THE SUPERINTENDENT OF SCHOOLS.

SECTION 1. The Superintendent of Schools of the City and county of San Francisco shall be a member and the Chairman of the Board of Inspectors of Public Schools; he shall also be *ex officio* a member of the Board of Education, without the right to vote.

**SEC. 2.** Said Superintendent shall appoint a clerk, by and with the consent of the Board of Inspectors, who shall act as Secretary of said Board of Inspectors. His salary shall be fixed and paid by the Board of Education. Said clerk shall be removed at the pleasure of said Superintendent. He shall perform such duties as shall be required of him by the Board of Inspectors or the Superintendent.

**SEC. 3.** The Superintendent shall report to the State Superintendent of Public Instruction whenever required by that Officer.

**SEC. 4.** He shall district the city and county, and designate a member of the Board of Inspectors, whose duty it shall be to personally visit the schools in the district apportioned to him, and to examine, at least once a year, each and every class therein, and the teacher thereof.

**SEC. 5.** In case of a vacancy in the office of Superintendent of Schools, the Mayor shall appoint, by and with the advice and consent of the Board of Aldermen, a person to fill the vacancy until the election of a Superintendent at the next general election, and his qualification.

## CHAPTER V.

### OF THE BOARD OF INSPECTORS.

**SECTION 1.** It shall be the duty of the Board of Inspectors of Public Schools:

- 1st. To make, establish and enforce all necessary rules for the government and efficiency of the teachers and pupils; to regulate and grade the schools, the course of studies and mode of instruction therein.
- 2d. To examine teachers and to recommend to the Board of Education the granting to them of certificates.
- 3d. To recommend to the Board of Education the appointment and dismissal of teachers and cancellation of their certificates, stating the reasons therefor.
- 4th. To see that the schools are efficiently conducted, and that the laws, and the regulations of the Board of Education are enforced in all things, and that no religious or sectarian books or teachings are allowed in the schools, and to report quarterly to the Board.
- 5th. To report to the Board of Education annually, on or before the twentieth day of June, and at such other times as the Board of Education may require, all matters pertaining to the condition and progress of the Public Schools of said city and county during the preceding year, with such recommendations as it may deem proper.
- 6th. To observe, and cause to be observed, such

general rules for the regulation, government and instruction of the schools—not inconsistent with the laws of the State—as may be established by the Board of Education.

- 7th. To attend, in its discretion, the sessions of the Board of Education and inform said Board of the condition of the schools, school houses, and other matters connected therewith; and to recommend such measures as it may deem necessary for the advancement of education in the said city and county.
- 8th. To notify the Board of Education, at all times, of any waste, misappropriation, or useless expenditure that may come to its knowledge.
- 9th. To become acquainted with all the laws, rules and regulations governing the Public Schools in said city and county; and to give advice on subjects connected with the Public Schools gratuitously, to officers, teachers, pupils, and the parents and guardians of pupils.
- 10th. To provide that instruction in the Public Schools shall be applied as far as possible to the practical affairs of life, to enable pupils to earn a living, and to cultivate a respect for truth, labor and industry.

## CHAPTER VI.

### OF THE COMMON SCHOOL FUND.

**SECTION 1.** The Common School Fund of the city and county of San Francisco shall consist of all moneys received from the State School Fund; of all moneys arising from taxes which shall be levied annually by the Common Council of said city and county for school purposes; of all moneys arising from sale, rent or exchange of any school property, and of such other moneys as may from any source whatever be paid into the said Common School Fund.

Said Fund shall be kept in the City and County Treasury, separate and distinct from all other moneys, and shall only be used for school purposes, in the manner specified by and under the provisions of this Charter.

No fees or commissions shall be allowed or paid for assessing, collecting, keeping or disbursing any school moneys; and if at the end of any fiscal year a surplus remains in the Common School Fund, such surplus money shall be carried forward to the Common School Fund of the next fiscal year, and shall not be for any purpose whatever diverted or withdrawn from said Fund, except under the provisions of this Charter.

**SEC. 2.** The said Common School Fund shall be used and applied by said Board of Education for the following purposes, to wit:

- 1st. For the payment of all salaries or wages of Superintendent, School Inspectors, Teachers, Janitors, School Census Marshals, and other persons who may be lawfully employed by said Board and in said School Department
- 2d. For supplying the schools with fuel, water, apparatus, blanks, blank books and necessary school appliances, together with text books for all children attending the Kindergarten and Primary Schools; provided, that text-books belonging to the School Department shall not be removed from the school houses.
- 3d. For lighting school rooms and the offices and rooms of the Board of Education, the Board of Inspectors and the Superintendent.
- 4th. For supplying books, printing and stationery for the use of the Board of Education, Board of Inspectors and the Superintendent, and for the incidental expenses of the Department.
- 5th. For the purchase money or rent of any real or personal property purchased or hired by the Board.
- 6th. For the erection, alteration, repairing and furnishing of school houses.
- 7th. For grading, fencing and improving school lots.
- 8th. For the discharge of all legal incumbrances existing on any school property.
- 9th. For the insurance of such school property as it may be deemed advisable to insure.
- 10th. For the payment of interest accruing on school bonds, and for the redemption of the same, as far as may be realized from the rents of property belonging to the School Department.

**SEC. 3.** All claims payable out of the Common School Fund, excepting the coupons for interest and the school bonds, shall be filed with the Secretary of the Board of Education, and after they shall have been approved by the Auditing Committee and a vote of five members of the Board of Education, upon a call of the ayes and noes (which shall be recorded), they shall be signed by the President of said Board and countersigned by the Secretary, and be sent to the Auditor.

Every demand shall have indorse<sup>d</sup> upon it a certificate, signed by the Secretary, of its approval by the Board of Education, showing the date thereof, the vote thereon, and the law authorizing it, by title, date and section.

Each person in the employ of the School Department enti-

tled to a salary therefrom, shall be granted a certificate for the amount found due, and approved by the Board, signed by the President and Secretary of said Board; but the entire monthly salary roll of the Department shall be made up by the Secretary of said Board, and after being audited by the Auditing Committee thereof shall be presented at a regular meeting of the said Board for its approval, and if approved by a majority of all the members thereof, upon a call of the ayes and noes (which shall be recorded), shall be indorsed in the same manner as other demands. The salary roll thus audited, approved and indorsed shall be immediately transmitted to the Auditor, for comparison with the individual salary certificates issued in the manner provided; but payment shall be made only on the individual certificates issued in accordance herewith.

**SEC. 4.** The expenditure of the School Department for all purposes, shall not in any fiscal year exceed the revenues of said Department for the same year.

**SEC. 5.** The City and County Auditor shall state, by indorsing upon any claim or demand audited upon the Common School Fund, the particular money or fund out of which the same is payable, and that it is payable from no other source.

**SEC. 6.** All lawful demands authorized by this Charter for school purposes shall be audited and approved in the manner hereinbefore provided, and the Auditor and Treasurer are respectively authorized to audit and pay the same when so ordered paid, and approved by the Board of Education; *provided*, that said Board shall not have the power to contract any debt or liability in any form whatever against said city and county in contravention of this Charter; and *provided further*, that the allowance or approval by the Board of Education of demands not authorized by this Charter, shall be no warrant or authority to the Auditor or Treasurer to audit or pay the same; and *provided further*, that no demand on said Common School Fund accruing or approved in any fiscal year, shall be paid out of, or become a charge against the Common School Fund of any subsequent fiscal year.

## CHAPTER VII.

### OF THE SCHOOL TAX LEVY.

**SECTION 1.** It shall be the duty of the Board of Education on or before the second Monday in September in each year, to report to the Common Council an estimate of the amount of money which shall be required during the year for the purpose of meeting the current annual expenses of Public Instruction in said city and county,

and specifying the amount required for supplies to be furnished pupils, including text books ; for purchasing and procuring sites; for leasing rooms or erecting buildings, and for furnishing, fitting up, altering, enlarging and repairing buildings ; for the support of schools organized since the last annual apportionment ; for the salary of Superintendent, and all persons employed in the School Department, and other expenditures necessary for the economical administration of the Public School system and authorized by law ; but the aggregate amount so reported shall not exceed the sum of twenty-seven dollars for each pupil, except as to pupils attending Kindergarten Schools, and as to such pupils fifteen dollars, for the average number of pupils who shall have actually attended and been taught in the preceding year in the schools entitled to participate in the apportionments.

The average number of pupils attending the schools, other than Kindergarten Schools, during any one year, shall be ascertained by adding together the number of days, attendance of all said pupils during the year, and dividing the same by the number of school days in the year. The average number attending the Kindergarten Schools, shall be ascertained in the same manner.

The Common Council shall levy and cause to be collected at the time and in the manner of levying State and other city and county taxes, a tax which shall produce an amount of money which, added to the revenue derived from other sources, shall not exceed twenty-seven dollars per pupil, except as to pupils attending Kindergarten schools, and as to such pupils fifteen dollars per pupil as ascertained and reported by the Board of Education.

**SEC. 2.** No school shall receive any portion of the school moneys in which the religious doctrines or tenets of any particular Christian or other religious sect are taught, inculcated or practiced, or in which any book or books containing compositions favorable or prejudicial to the particular doctrine or tenets of any particular Christian or other religious sect is used ; nor shall any such book or teachings or practices be permitted in the Public Schools.

**SEC. 3.** No member of the Board of Education shall ever become the disbursing agent of said Board, or handle or pay out any of its money under or upon any pretence whatever. Any violation of these provisions shall be a misdemeanor, and shall subject the offender, besides the punishment therefore, to removal from office.

Any member or officer of the Board of Education or of the Board of Inspectors of Public Schools, who shall, while in office, accept any donation or gratuity in money or of any valuable thing, either directly or indirectly, from any teacher or candidate, or applicant for position as teacher, upon any

pretence whatever, shall be deemed guilty of a misdemeanor in office, and shall be ousted by the Board of Education, or by any Court of competent jurisdiction from his seat, on proof thereof.

Any member or officer of the Board of Education, or of the Board of Inspectors of Public Schools, who shall accept any money or valuable thing, or the promise thereof, with an agreement or understanding expressed or implied that any person shall in consideration thereof get the vote or influence of such member or officer for a situation as a teacher, or employee of any kind, in the School Department, shall be guilty of a felony.

## CHAPTER VIII.

### OF SCHOOL HOUSES AND LOTS.

**SECTION 1.** Whenever a district in the city and county of San Francisco is unprovided with sufficient school accommodations, and whenever suitable class rooms cannot be leased or rented at a reasonable price, and whenever the number of pupils attending a school or schools sufficiently near to be consolidated in such district, shall exceed two hundred, the Board of Education may erect a suitable school house for the accommodation of the pupils in such district.

**SEC. 2.** Plans and specifications and estimates of cost presented in accordance with the advertisement inviting the same, shall be submitted to the Board of Education by the person or persons competing for the premium, under an assumed or fictitious name, and shall be examined within ten days after the date set for receiving the same by the Board of Education and the Superintendent of Schools, and if approved and adopted by them, on proof of the authorship and the correctness of the estimate of cost of construction, which shall include all needed excavation, completion and finishing, the person or persons presenting the said adopted plans, specifications and estimate, shall be declared the successful competitor and entitled to the premiums therefor; but the Board of Education has the right to reject all the plans, specifications and estimates submitted.

**SEC. 3.** If the successful competitor should be elected by the Board, architect for such building, then the premium paid for the plans, specifications and estimate aforesaid, shall be in part payment of the compensation or fees to be paid such architect; and such architect shall be considered as officially connected for the time being with the School Department, and subject to the conditions and penalties provided in Section 6, Chapter III, of this Article.

**SEC. 4.** The plans, specifications, and estimate of cost of the school building, shall be for all the work, labor, and ma-

terial necessary for the excavation of the lot, erection and absolute and full completion of said school house building; and no extra work or alterations shall be permitted thereon, except as hereinafter provided for.

**SEC. 5.** If the author of the adopted plans, specifications and estimate is employed by the Board of Education as, and is in fact, architect of such building, and the cost of building the school house, and doing all the work and furnishing all the material contemplated thereabout and thereon, in accordance with the adopted plans and specifications, should exceed the estimate of cost submitted by such architect, such excess shall be a legal claim against him, and shall be deducted from his compensation as such architect.

**SEC. 6.** No alterations or extra work shall be allowed without the consent of three-fourths of the Board of Education, at a regular meeting, expressed by resolution on the call of the ayes and noes, and entered on its records; and if such extra work or alteration shall cost five per centum over the original estimated cost of such building, it shall be necessary, in addition to the foregoing, to obtain the written consent of the Mayor thereto. And whenever the cost of such extra work or alteration shall exceed five hundred dollars a written contract shall be executed, as provided in Section 5, Chapter III, of this Article.

**SEC. 7.** Proposals shall be invited and the contract entered into for the erection of such school house, in the same manner and subject to the same conditions as provided in Section 5, Chapter III, of this Article.

**SEC. 8.** Whenever it is necessary to purchase a lot for the use of the School Department, such lot shall be of sufficient size to allow a clear space of at least ten feet around the building to be constructed thereon; and the price paid for such lot shall not exceed the market value of adjacent property of equal size and similarly situated.

## CHAPTER IX.

### OF EMERGENCIES.

**SECTION 1.** In cases of extreme emergency or great calamity, such as disasters from fire, riot, earthquake, or public enemy, it shall be competent for the Board of Education, with the approval of the Mayor and Common Council to incur extraordinary expenditures for the repairing and construction and furnishing of school houses, to take the place of those injured or destroyed by such calamity or disaster; and such expenditures may exceed the annual limit provided in Section 1, of Chapter VII, Article II of this Charter, and the Common Council is authorized and empowered to transfer to the Common School Fund,

from any fund not otherwise appropriated, sufficient money to liquidate such expenditures, made in the manner and under the circumstances related, and to provide for the same in the next tax levy of said city and county.

## ARTICLE X.

### **Department of Elections.**

#### CHAPTER I.

**SECTION 1.** The conduct, management and control of elections, and of all matters pertaining to elections in said city and county, shall be vested in a Board of Election Commissioners, consisting of four members, who shall be appointed by the Mayor, by and with the advice and consent of the Board of Aldermen, and shall serve without compensation; but in making such appointment the Mayor shall not appoint more than two members of said Board from the same political party, and in filling any vacancy that may occur in said Board the Mayor shall appoint to fill such vacancy some suitable person of the same political party as that to which the last incumbent belonged. Said Board shall have and exercise all the powers and be charged with all the duties as to elections, and all matters pertaining to elections, which are granted and prescribed by this Article, and also all those which are now or may hereafter be vested in them by ordinances of said city and county or by general laws. No person shall be appointed member of said Board who shall not have been a citizen of the United States, and a resident and qualified elector of said city and county for at least five years preceding his appointment.

**SEC. 2.** No member of said Board shall be eligible to any other office during his incumbency of the office of Election Commissioner, nor shall be during his term of office, be a member of any convention, the purpose of which is to nominate candidates for office, nor act as judge, inspector, clerk, or officer of any election or primary election, or take part in any election except to deposit his vote, and perform his official duties. Any violation of any of the provisions of this section shall be a misdemeanor, and shall be cause for the immediate removal from office of the person guilty of such violation.

The term of office of said Commissioners shall be four years, provided, however, that the first Commissioners appointed under this Article shall, immediately after their appointment, so classify themselves by lot, that two of them of different political faith, shall go out of office in two years, after their appointment.

SEC. 3. The Board of Election Commissioners shall organize within ten days after their appointment, by choosing one of their number President of the Board, and by electing a Registrar of Voters, who, in addition to the duties hereinafter prescribed, shall be ex-officio Secretary of the Board. He shall have the right to participate in the deliberations of said Board without the power to cast any vote. He shall execute all orders, and enforce all rules and regulations adopted by said Board, and shall give advice and information to the Board when required by it to do so. He shall hold his office for a term of four years, unless sooner removed for cause by a majority vote of the Board. The salary of the Registrar shall be thirty-six hundred dollars a year. He shall before entering upon the duties of his office take the constitutional oath of office, and give a bond in the sum of five thousand dollars for the faithful performance of his duties.

SEC. 4. The said Registrar, subject to the approval of the said Board, may appoint a deputy, who shall receive a salary of one hundred and fifty dollars per month, and such other clerical assistants as in his judgment, with the approval of said Board, may be necessary. Said Board shall, by resolution adopted by a majority vote of all its members and entered upon its minutes, designate the service to be rendered by such assistants, the rate of compensation, and the term for which they shall be employed. The time of employment so fixed shall not be extended except by like resolution of the Board, nor shall the salary so fixed before the employment, be increased in any case. No assistant shall be retained after his services have ceased to be necessary.

SEC. 5. The Registrar of Voters shall have all the powers, discharge all the duties, and be liable to all the obligations with respect to the registration of voters and other matters pertaining to elections in said city and county, now or hereafter belonging to, or resting upon the County Clerks of other counties of this State under the general laws thereof, so far as the same are not inconsistent with the provisions of this Charter; *provided*, however, that all matters pertaining to election contests shall be conducted by such officers and in such manner as is now or may hereafter be provided by law.

SEC. 6. The Board of Election Commissioners shall, on or before the first day of July preceding each general election, divide said city and county into election precincts, of which there shall be as many as shall be sufficient to make the number of votes polled at any one election precinct not more than three hundred nor less than two hundred, as near as can be ascertained and arranged, using streets and avenues as boundaries; *provided*, that no precinct shall, in any

case, extend outside the ward lines; *and provided further*, that when any one block shall contain more than three hundred qualified electors, such block shall constitute one precinct, and that after the city and county shall have been once divided into precincts, the boundaries of any precinct shall not be changed until the votes cast in said precinct shall exceed three hundred.

SEC. 7. All officers and persons in said city and county heretofore exercising any duties in reference to registration of voters, or elections shall, upon demand, transfer and deliver to the Registrar of Voters all registers, records, books, documents and things belonging to or in anywise appertaining to the registration of voters, or other election matters in said city and county.

SEC. 8. The Registrar of Voters shall keep his office open for business every day in the year (legal holidays excepted), from eight o'clock A. M. till five o'clock P. M.; and he shall be in attendance thereat during said hours, except when absent on official business. All registration of voters by said Registrar or his deputies must be done at the said office, and during office hours, where the public may have easy access, without disturbing, interfering with, or retarding an efficient execution of the law. The Registrar and his clerks, engaged in the registration of voters, and also the Election Commissioners and the members of Boards of Precinct Registrations, shall have power to administer oaths and affirmations in all matters touching elections, the duties of their offices, and the registration of voters or inquiry into their qualifications.

SEC. 9. The Registrar shall constantly inform himself, by examination and inquiry, as to the condition of the precinct registers, and the legality of the names thereon, or demanding to be placed thereon, and shall see that none but legal voters are registered. Should the Registrar have reason to believe that any name or names upon the precinct register is improperly or illegally there, it shall be his duty forthwith to send a written or printed notice, by postal card or otherwise, to such person, directing the same to his address as found in the directory, or, in case his name is not in the directory, then to the address of such person as found on the Register on the last preceding election at which such name was voted, requiring such person to show cause before the Board of Election Commissioners, at a day to be named in said notice, why said Board shall not cancel said name. If such person fail for five days after the day fixed for the hearing, to appear and establish the legality of such name, and on the certificate of the Registrar that notice in accordance here-with has been given, the Board shall inquire into the case,

and, if it appears to the satisfaction of the Board that such name is improperly upon the precinct register, then said Board shall make and enter an order directing the Registrar to cancel such name or names. But the parties may appear before said Board at the hearing and show cause against said order, and if the Board finds them properly registered, or entitled to registry, an order shall be made accordingly, which shall be final.

SEC. 10. The Registrar shall keep in his office a list of all deaths of adult males, occurring in said city and county, as well as of the deaths of such citizens as may come to his knowledge, who have died elsewhere, to be alphabetically arranged for convenience of reference. He shall also keep a list of all removals or changes of residence, so far as he can learn the same, and of commitments to prisons and insane asylums, with time and place, as well as such other information as shall be found useful and within his reach. It shall be the duty of all Clerks of Courts, Prison Keepers, Health Officers, and all other public officers, on demand, to furnish to said Registrar certified statements of such official facts, within their knowledge, necessary for him to obtain; and also all information necessary or useful to him in and about the performance of his said duty.

SEC. 11. The Registrar, under and subject to the rules of the Board, must take charge of the business of placing the election officers, and when it is too late to call the Board together to fill vacancies, may select and appoint election officers for said purpose, from a list of substitutes selected by said Board. Should any election officer fail to appear at the opening of any election, or at any time during the progress thereof, the officers in attendance may, subject to such rules as the Board may prescribe, fill up the same by appointing any competent citizen who is a registered elector of the precinct. In all cases in filling a vacancy the appointee shall be taken from the political party to which the person whose place is to be filled, belonged. Any person refusing to serve when so appointed, shall be guilty of a misdemeanor.

SEC. 12. The registration of voters, counting of votes or ballots, and all proceedings connected therewith, shall be public, and citizens shall have free ingress and egress to and from the place where the same is being done. Any election officer, or other person, who shall hinder or impede any citizen in his right to free entrance to any polling place, or place of registration, and to observe and watch the counting of votes or ballots, shall be guilty of a misdemeanor.

SEC. 13. At every election held in the City and County of San Francisco, each political party shall have the right to designate, place, and keep a challenger at each place of reg-

istration, revision of registration and voting, who shall be assigned such position immediately adjoining the officers of registration and of election, as will enable him to see each person as he offers to register or vote, and who shall be protected in the discharge of his duty by the officers of election and the police. Each political party may remove any challenger appointed by it, and may appoint another in his place who shall have the like authority as was conferred by the original appointment.

SEC. 14. It is hereby made the duty of any and all voters in such city and county (persons holding office or employment under the United States, the State of California, or said city and county, or in any of its departments, excepted), to serve as Inspectors, and Clerks, or other officers of election, whenever required to do so under the provisions of this Article.

SEC. 15. It shall be the duty of the Registrar to obtain from the property tax-list and registers of voters of said city and county the names of the resident citizens of said city and county, possessing the necessary qualifications to act as Inspectors, and Clerks of Election, taking care to select persons of good reputation and character, and have the same placed in a book, so as readily to refer to the places of residence and the precinct in which they vote. He shall take care that said list shows the names and residences of all property taxpayers who reside in said city and county, and who are voters, and shall ascertain, as nearly as he can, the capabilities of such voters to act as election officers. If any of them are incompetent to serve, and not otherwise, their names may be left off, but the reason must be noted.

SEC. 16. Said Board of Election Commissioners shall select, except as herein otherwise provided, all election officers provided for by law or by this Charter for said city and county, and shall appoint them to their respective places. They must be citizens of said city and county, of good character, and able to read, write and speak the English language. Said Board shall have the power to make any regulations and rules for such appointment or selection as it may deem advisable, so as to secure integrity, impartiality and capacity for the work to be done; and must take measures to secure the names of proper persons, citizens of said city and county, to fill all appointments as herein provided. In selecting such officers the Board must select, as nearly as possible, an equal number of persons of opposite political faith and opinions to serve at each precinct. And the persons so selected must be residents of the ward and of the Senatorial District in which the precinct is located.

SEC. 17. The Inspectors shall receive no compensa-

sation for any of their services. The said Board may, when necessary, provide for the compensation of clerks for tallying, writing and other matters requiring special skill and qualifications, such sum as may be necessary to secure such services; but not to exceed four dollars per day for any one clerk. Inspectors during the time they shall hold such offices, shall be exempt from the performance of jury duty in said city and county. Any clerk who would be entitled to receive compensation under the provisions of this section, may at his option, in writing, waive such compensation. Such waiver shall be filed with the Registrar, and from and after the filing of the same, said clerk shall during the time he holds such office, also in like manner be exempt from jury duty. No person holding any office or employment under the United States, the State of California, or said city and county, or any of its departments, or any candidate for office, or who shall have been either thereof within ninety days prior to his appointment, shall be eligible to, or allowed to serve as an election or registration officer, or clerk, or in any manner whatsoever at an election.

SEC. 18. Each and every person selected as an officer of election by the Board of Election Commissioners shall be notified by the Registrar of the fact of his appointment. Such notice shall be in writing, or printed, and shall have printed thereon a copy of this section, and may be served by postal card or otherwise. Such person so notified shall, within the time fixed in the notice, which shall not be less than five days, appear before the Registrar, for the purpose of examination, and if found qualified, shall, unless excused by said Board, by reason of ill-health, or other good and sufficient cause, be bound to serve as such officer for the term of two years from the date of his appointment, unless excused or dismissed by the Board; and in case of neglect, or refusal to comply with the above mentioned requirements, or to serve, or act, shall be liable to a penalty of five hundred dollars, recoverable by civil action in any Court of competent jurisdiction, in the name of said city and county, which when collected, shall be paid into the Treasury. Failure on the part of any such person to present himself for examination, or to comply with any of the requirements of this Article preliminary to receiving his certificate of appointment within the time prescribed, or to attend on any day of registration or revision, or examination of registration, or the day of any election during said term, unless prevented by sickness, or other sufficient cause (the burden of proof of which shall be upon the delinquent) shall be deemed a refusal within the meaning of this section.

SEC. 19. The persons so appointed officers of election shall each take and subscribe and file with the Registrar, or his deputy, before acting as such, and within ten days from the date of notice of appointment the following oath of office: "I, ——, residing at ——, do solemnly swear (or affirm) that I will support the Constitution of the United States and of the State of California, and that I will faithfully discharge the duties of —— of election for the City and County of San Francisco, in Election Precinct — of Ward —, according to the best of my ability, and that I am a citizen and qualified voter of the State of California and not a candidate for office to be voted for by the electors of the precinct or ward for which I am appointed, nor have I held office or employment under the United States, the State of California, the City and County of San Francisco, or any Department thereof, or been a candidate therefor, within ninety days." No payment shall be made to any person as an election officer who shall not have taken, subscribed and filed such oath or affirmation, or who shall not during his period of service have fully complied with the requirements of law relating to his duties, and the acting of any such person in such capacity without having taken and subscribed such oath or affirmation, shall be a misdemeanor.

SEC. 20. Each person so appointed and qualified shall receive a certificate of appointment from the Registrar in such form as may be prescribed by said Board of Election Commissioners. It shall specify the ward and precinct for which he is appointed and the date of the expiration of his term of office. He may be removed by said Board for want of the requisite qualifications, or for cause, in either of which cases such removal, unless made when the Inspector or Clerk is actually on duty on a day of registration, or election, and for improper conduct as an election officer, shall only be made after notice, in writing, to the officer sought to be removed, which notice shall set forth clearly and distinctly the reasons for his removal. When any Inspector or Clerk is appointed to fill a vacancy, that fact shall be stated in his certificate of appointment, and he shall hold office only for the unexpired term. No Inspector or Clerk shall be transferred from one election precinct to another after he has entered upon the performance of his duties.

SEC. 21. The registration of electors in said city and county shall be done by election or voting precincts. The provisions of the Political Code, requiring the keeping of a Great Register and Ward Registers, shall not be applicable to said city and county. The provisions of said Code, as they now are or may hereafter

be, as to making and keeping the Great Register, and the manner of entering names therein, and the substance and contents of said entries, and the alterations, changes, and cancellation thereof, as well as the proceedings and proofs to enable voters to be registered in said Great Register, and all matters relating thereto, so far as the same are not inconsistent with the provisions of this Charter, shall be applicable to the precinct registers of said city and county. And said precinct registers shall be used at all elections, and no person shall vote at any election except he be legally registered upon the precinct register of the precinct in which he is a qualified voter.

SEC. 22. The registration of electors in the precinct registers in said city and county shall take place previous to each general election, as herein provided, and an elector properly enrolled thereon, without being again enrolled, may, if he has not changed his residence, vote at the general election next ensuing after his registration, and at all special elections between said general election and the next general election, but not afterwards, until re-registered according to law.

SEC. 23. The Board of Election Commissioners shall cause to be prepared, books for the registration of names and facts required by law and by this Article. Said books shall be called Precinct Registers, and shall be so arranged as to admit of the entering, under the name of each street or avenue in each election precinct, and the number of each dwelling in any such street or avenue, if there be a number thereto, and if there be no number, under such other definite description of the location of the dwelling-place as shall enable it to be readily ascertained, found and located, of the names of all electors resident in each dwelling in each of said precincts who shall apply for registration. Said Registers shall be ruled in parallel columns, in which, opposite to and against the name of every applicant, shall be entered words and figures of the character hereinafter provided in this section, and each of said Registers shall be of such size as to contain not less than five hundred names, and so prepared that they may be used at each election in the City and County of San Francisco, until such time as is provided for the succeeding general registration, and shall, on the inside, be in appearance and form substantially as follows, to wit:

RECENT TESTIMONY OF VOTERS

To each precinct register shall be prefixed an alphabetical list of all the names contained therein, and opposite to each name shall be set its register number. The Registrar shall place in said alphabetical list, all the names registered in his office, and after its delivery to the Board of Precinct Registration, each name registered by said Board shall be placed by it in said list, and so printed.

SEC. 24. The Common Council, on the requisition of said Board of Election Commissioners, shall cause a sufficient quantity of blanks for precinct registers for all the precincts of said city and county to be prepared, and the same shall be kept by said Registrar, at his office, so that voters may be registered, upon application and proper proof, according to law. Ninety days before each general election, the Registrar shall commence the registration of all voters entitled thereto who apply with proper proof, and none other. Such voters shall be registered in the precinct registers, for the precinct where they are entitled to vote, and not otherwise. Such registration shall continue at the office of the Registrar until the precinct registers are delivered to the Board of Precinct Registration, as is hereinafter provided for, and shall be made with said index, in duplicate and in accordance with the rules herein provided for said Board of Precinct Registration.

SEC. 25. It shall be the duty of the Board of Election Commissioners in the third month preceding every general election to appoint four Inspectors of election for each precinct of said city and county. Said four persons shall constitute the Board of Precinct Registration for said precinct, and shall serve for two years, unless sooner removed by said Board of Election Commissioners. Two of them shall be of different political faith and opinions from the other two.

SEC. 26. Said Boards of Precinct Registration shall meet in the places provided in their respective precincts for such purpose, commencing five days (legal holidays excepted) before the day fixed by this Article for the cessation of the registration of electors in said city and county, and shall sit in open session from nine o'clock A. M. until ten o'clock P. M. of each day, until the day of such cessation (legal holidays excepted), to receive and act upon applications for registration on the part of the voters of said precinct. They shall organize by electing one of their number Chairman. In case of a failure to so organize within fifteen minutes after the time fixed for the meeting, the Chairman shall be selected by them by lot. They shall receive the applications for registration of such residents of their several election precincts as then are, or on the day of election next following the

day of making such application would be, entitled to vote therein, and who shall personally present themselves, with proper evidence of their rights, and such only. Said Boards shall not, in any case, register electors who have lost or who are not in possession of their naturalization papers. Such electors shall be registered only by the Registrar.

SEC. 27. It shall be the duty of the Registrar to furnish the Boards of Precinct Registration with blanks, stationery, and all other matters and things necessary to enable them to conveniently and speedily perform the duties devolving upon them under this Article. He shall also give such Boards his assistance and advice in organizing and conducting the registration of voters, and other matters required of them by law, and shall visit said Boards while engaged in said duty, and see that said proceedings are conducted according to law, and the registers made in due form. He shall be allowed free access to the precinct registers at all times; the public shall also have reasonable access thereto. All election officers shall have power to administer oaths and affirmations, and to take testimony in the discharge of their duties.

SEC. 28. As soon as the Boards of Precinct Registration shall have commenced their sittings for registration in the several precincts, registration at the office of the Registrar shall cease, and the precinct registers and the duplicates thereof herein provided for, shall be delivered by the Registrar to said respective Boards, who shall go on with the registration of the voters at the places provided for them in their respective precincts until the time provided for registration has expired, when all registration shall cease.

SEC. 29. Said Boards shall administer to all persons who apply to register the following oath or affirmation, viz: "You do solemnly swear [or affirm] that you will fully and truly answer all such questions as shall be put to you touching your place of residence, name, place of birth, your qualifications as an elector, and your right as such to register and vote."

SEC. 30. Said Board shall then examine each applicant as to his qualifications as an elector, and shall immediately, in the presence of the applicant, enter in the said register, and in said duplicate thereof, the statements and facts below set forth in manner following, namely:

*First*—Under the column "Residence," the name and number of the street, avenue, or other location of the dwelling, if there be a number, but if there be not a number, such clear and definite description of the place

of said dwelling as shall enable it to be readily ascertained, fixed and determined ; and if there be more than one house at the number given by the applicant as his place of residence, in which house he resides, or if there be more than one family, then under the column "Floor of House," the floor on which he resides, and under the column "Number and location of room" the number and location of the room or rooms occupied by him, when numbered, and whether front or rear.

*Second*—Under the column "Names," the name of the applicant, giving the surname and christian name in full. The names of all the persons residing in the same dwelling shall follow each other and be under the house and street number or other description, as provided, of the dwelling.

*Third*—Under the column "Sworn," the words yes or no as the fact shall be.

*Fourth*—Under the column "Nativity," the State, country, kingdom, empire or dominion, as the fact shall be stated by the applicant.

*Fifth*—Under the column "Age," the age of the applicant, rejecting fractions of the year.

*Sixth*—Under the column "Color," the words white or colored as the fact is.

*Seventh*—Under the column "Occupation," the business or profession of the applicant.

*Eighth*—Under the subdivision of the general column "Term of residence," the period by months or years stated by the applicant in response to the inquiries made for the purpose of ascertaining his qualification and filling such column.

*Ninth*—Under the subdivisions of the general column "Naturalization," there shall be placed, in all cases where the applicant claims to be a naturalized citizen, in the appropriate subdivision, whether he claims by the naturalization of his father, yes or no as the case may be, the time and place of naturalization, the name of the Court where naturalized, whether or not the certificate is lost, and the date of the papers of naturalization, as the same shall appear by the evidence of citizenship submitted or presented by the applicant.

*Tenth*—Under the column "Qualified voter," the words yes or no, as the fact shall appear and be determined by at least three members of the Board of Precinct Registration, it being however required of them to designate as a qualified voter any person who being otherwise qualified shall not at the time of making the application be of age, provided the time when such applicant shall be of the age of twenty-one years shall be subsequent to the date of his making application, and not later than the day of election immediately following such time of applying.

*Eleventh*—Under the column “Date of application,” the month, day and year when the applicant presented himself and was adjudged a qualified voter of the election precinct.

*Twelfth*—Under the column “Challenge,” yes or no, according to the fact, whether challenged or not.

SEC. 31. It shall be the duty of the Board of Precinct Registration, in addition to its other duties, to carefully examine and revise the names of voters upon their several precinct registers, as delivered to it by the Registrar, and to ascertain if such names are the names of legal voters, properly on said precinct register and entitled to vote in said precinct.

SEC. 32. The Boards of Precinct Registration shall keep the several precinct registers for such time as shall be necessary, not to exceed three days after the time for registration ceases, during which time they shall make diligent examination and inquiry as to the right of the respective voters who have been registered on said precinct register to such registration, and shall, in all doubtful cases, certify said doubt, with the reason therefor, to the Board of Election Commissioners for further action. All persons who have been refused registration by the Registrar, or by the Precinct Board, may appeal to the Board of Election Commissioners, who shall hear and determine the same in a summary manner, so as not to delay the completion of the registers, and all those who claim to have lost their naturalization papers, when refused registration, may so appeal.

SEC. 33. When the Board of Precinct Registration has completed the examination and inquiry provided for in the preceding section, it shall certify the precinct register with said index and said duplicate thereof as is hereinafter provided, and deliver the same to the Registrar. Said delivery shall be made not later than three full days after the cessation of registration. The said Board shall at the same time prepare and duly certify a separate and distinct list, showing the names of all persons concerning whose right to registration it is in doubt, together with the grounds and reasons for such doubt. Such list and certificate shall be delivered to the Registrar at the same time with the precinct register. Proper blanks shall be prepared and furnished by the Registrar for the purpose of making the return of doubtful names on the registers, and also blank certificates and all other necessary things for said purpose.

SEC. 34. The certificate to be attached to the precinct register shall be substantially in the following form, to wit: “We, the undersigned, Inspectors of Election, forming

the Board of Precinct Registration for the.....  
 Precinct of the..... Ward of the City and County of San  
 Francisco, do jointly and severally certify that on the.....  
 day of....., 18...., we met and organized as such  
 Board, at the place appointed by law for the holding thereof  
 in said precinct ; that the precinct register was delivered to  
 us by ..... , Registrar of  
 Voters for said city and county, containing at the time of its  
 delivery to us the names of (stating number) voters ; that  
 we have examined and inquired into said list to the best of  
 our ability, and have noted all doubtful registration thereon.  
 We also certify that we sat as a Board of Precinct Registration  
 at said place, ....., from the .....,  
 day of ....., till the ....., day of .....,  
 ....., 18...., and have admitted to registration  
 (showing number) citizens, whose names and other matters of  
 qualification will appear upon the foregoing register, and  
 that the whole number of qualified voters upon said register  
 is (number).

“ Dated, ....., 18....

“ (Signed) :	_____	_____
“ (Signed) :	_____	_____
“ (Signed) :	_____	_____
“ (Signed) :	_____	_____

SEC. 35. The certificate to be annexed to the list of doubtful names shall be substantially in the following form, to wit:  
 “ We, the undersigned, composing the Board of Precinct Registration for the..... Precinct of the.....  
 Ward, of the city and county of San Francisco, hereby certify  
 that the accompanying list shows all the names and other  
 matters of qualification of voters upon the Precinct Register  
 for said precinct, about whose right to registration we entertain  
 a reasonable doubt, together with a statement of the cause  
 or grounds for such doubt.

“ Dated, ....., 18....

“ (Signed) :	_____	_____
“ (Signed) :	_____	_____
“ (Signed) :	_____	_____
“ (Signed) :	_____	_____

SEC. 36. The Registrar shall forthwith notify all persons certified as doubtful, of said fact, and also in cases where the Registrar has reason to believe that persons have been improperly registered, and shall cite them before the Board of Election Commissioners, as provided in Section nine, of this Article; and the same proceedings shall be had as to citation and cancellation, as are provided for in said section.

SEC. 37. Thirty days before a general election all regisra-

tion or enrollment of voters shall cease, and the precinct registers, as they stand, shall be the precinct registers for said ensuing elections and until the next general election, subject only to changes in the following cases:

*First*—All that for any reason are illegally on the precinct registers, shall be cancelled.

*Second*—Any name that has been once lawfully on the precinct register, so as to entitle the person to vote at said ensuing election, and which has been by fraud, mistake, or otherwise improperly removed or cancelled, may be restored, by order of the Board of Election Commissioners, on proper evidence thereof.

Any voter entitled to have his name upon the precinct register under the terms of the last preceding subdivision, and no others, may have the same placed upon the supplementary register provided for in this Article, within five days from the time herein provided for the cessation of enrollment on the precinct register. Any person who does not so apply within said time shall not be enrolled on the precinct register of said election.

SEC. 38. As soon as the Registrar shall receive the precinct register and index and said duplicate thereof from any Board of Precinct Registration he shall immediately transmit the said duplicate to the Clerk of the Common Council for use in the printing thereof.

SEC 39. The Common Council shall at or about the time of the commencement of any general registration in said city and county contract for the printing with type, when completed, of said precinct registers and alphabetical lists. The contract or contracts shall require the printing of two hundred copies of each Register, and that the same be completed within twelve days after the receipt of the duplicate register by the Clerk of the Common Council. The said printing shall be awarded to the bidder making the lowest bid for each name registered, counting said alphabetical lists as a part of the Register, and counting each name only once; any bidder may bid for the printing of any one or more of said Registers. It shall be the duty of the Registrar and his assistants to supervise the said printing and see that all contracts with reference thereto are faithfully performed. They shall read and carefully examine the proof-sheets and see that the printed copy exactly corresponds with the original register. Copies of said register when printed shall be immediately posted in the office of the Registrar. The Registrar shall furnish at least ten copies of each of said precinct registers to the authorized representatives of any

political party in said city and county applying to him for the same.

SEC. 40. As soon as the Registrar receives the precinct register from any Board of precinct registration he shall proceed immediately to ascertain by inquiry and examination the correctness of said precinct registers, and to cancel all names not legally thereon, and shall prepare a supplemental list for each precinct, showing the cancellations and additions to the regular list made after the publication of the same, of which supplemental list a duplicate shall be kept in the same manner as hereinbefore provided for the precinct register. The printing of the said duplicate lists shall in like manner be contracted for, and the same shall be printed, posted and distributed in like manner at least fifteen days before the day of the election, after which no changes shall be made. All cancellations and additions to the registers made by the Registrar shall be subject to the approval of the Board of Election Commissioners.

SEC. 41. Not less than five days before the day for the first sittings of the Boards of precinct registration the Registrar shall cause an advertisement to be printed for five consecutive days, and on all days of registration, in three daily newspapers of general circulation, published in said city and county, giving notice to the voters of said city and county that the time for the enrollment of voters on the precinct registers will expire on a certain day, naming the day fixed in this Article for the last day of registration, and inviting them to present themselves within said time, for registration at the place of meeting of said Boards, (which shall be named), under penalty of being debarred the privilege of voting at such election. Such notice shall specify the day upon which the precinct registration by said Boards shall commence, and also the day upon which it is to end.

SEC. 42. The Board of Election Commissioners shall procure rooms or places for the sittings of the Boards of Precinct Registration and for polling places. They shall advertise for offers of rooms and polling places, and shall accept the lowest bid when conveniently located. But in each election precinct such place shall be in the most public, orderly, and convenient portion of the district, and no building or part of building shall be designated or used as a place of registry or polling place in which, or any part of which, spirituous or intoxicating liquors is sold or has been sold within thirty days next preceding the time of using the same; and no place shall be designated or used for any such purpose without the same is well lighted.

SEC. 43. All provisions for carrying out the registration and election laws in such city and county, shall be made by the

Board of Election Commissioners, and demands on the Treasury authorized or allowed by it for such purposes shall be paid in the same manner as other demands, after approval of the same by the Common Council.

SEC. 44. Two persons of different political faith and opinions and possessing the other qualifications required by this article for Inspectors shall be in all respects similarly named, selected, notified, examined, appointed, commissioned and sworn as Clerks in and for each election precinct in the city and county. They shall hold office for the same period of time and upon the same conditions as are above prescribed for Inspectors, and shall receive a like certificate of appointment.

SEC. 45. The Inspectors shall constitute the Board of Election for their respective precincts. The Board of Election Commissioners shall have power prior to the election day to appoint from each precinct four additional Inspectors and two additional Clerks. When such appointment is made, such additional Inspectors with the original Inspectors shall canvass the vote for such precinct, and shall from and after the closing of the polls constitute the Board of Election of such precinct, the members relieving each other in the duty of canvassing the ballots, which may be conducted by at least half of the whole number; but the final certificates shall be signed by a majority of the whole.

SEC. 46. Said additional Inspectors and Clerks shall be one-half each of different political faith and opinions and possessing the other qualifications required by this Article, and shall be in all respects similarly named, selected, notified, examined, appointed, commissioned and sworn as hereinbefore provided. They shall hold office for the same period of time as the others, and shall receive a like certificate of appointment. If any one of said additional Inspectors or Clerks is not present at the precinct at the closing of the polls the Board of Election must fill the vacancy by the appointment of some suitable person of the same political faith and opinions as the absent person.

SEC. 47. The polls must be opened at sunrise and kept open continuously until sunset of the same day, when they shall be closed.

SEC. 48. As soon as the polls of an election shall have been finally closed, the Inspectors in their several election precincts shall immediately, and at the place of the polls, proceed to canvass the votes. Such canvass shall be public, and shall not be adjourned or postponed until it shall have been fully completed. No vote shall be received, nor shall any ballot be counted or canvassed, nor shall any statement

of votes, announcement or proclamation, be made at any time when the main entrance to the room in which the election is held shall be closed in such a manner as to prevent ingress and egress; but the said Inspectors may station one or more officers at such entrance to exclude disorderly and improper persons; nor shall any such duties be performed unless at least six persons, if so many claim that privilege, are allowed to be present, and so near that they can see whether the duties of the said Inspectors are faithfully performed.

SEC. 49 The canvass shall be made in the following manner: The Inspectors, after administering the oath to the additional Inspectors, if any there be, and after numbering and marking the ballots, must open the ballots and place those which contain the same party vignette and the same names without erasures, together, and the scratched tickets, with the same party vignette, by themselves, and other ballots by themselves, so that the several kinds shall be in separate piles or on separate files. One of the Inspectors shall then take the kind of ballots which appear to be the greatest in number and count them by tens, carefully examining each name on each of said ballots. Such officer shall then pass the ten ballots to the officer sitting next to him, who shall count them in the same manner and pass them to a third, who shall also count them in the same manner, and shall then call the names of the persons named in the ballots and the offices for which they are designated and the clerks shall tally the votes for such persons. The fourth Inspector shall watch the proceedings of the others and of the Clerks, and at his option may perform the same duties in respect to the canvass as are above prescribed, or in case of the absence of a poll clerk, may perform his duties. When the counting of each kind of ballots shall be completed, the poll clerks shall compare their tallies together and ascertain the total number of ballots of that kind so canvassed, and when they agree upon the number, one of them shall announce it in a loud voice to the Inspectors.

The kind of ballots which appear to be next greatest in number, and afterwards each of the other kind of ballots in succession, shall then be canvassed in the same manner. The ballots having erasures on them (being those usually called "scratched tickets,") shall then be canvassed separately by one of the officers sitting between two others, and calling each name to the clerks, and the office for which it is designated, the other officers looking at the ballot at the same time, and the clerks making note of the same. When all the ballots found in the box have been canvassed in this manner, the clerks shall

compare their tallies together, and ascertain the total number of votes received by each candidate, and when they agree upon the number, one of them shall announce in a loud voice to those present, the number of votes received by each candidate, on each of the kinds of ballots containing his name, the number received by him on the scratched tickets, and the total number of votes received by him. Thereafter, the returns shall be made in the manner provided by law to the Registrar.

SEC. 50. Any person applying to register, or who, being registered, offers to vote, may, on any day of general registration or of election, be challenged by any qualified voter of this City and County, and either of the Inspectors of election in any election precinct in said city and county may, and one of them shall, at any authorized meeting of the Board of Precinct Registration, or of the Board of Election, administer to any person so challenged, the oath or oaths provided by law to test the qualification of challenged electors, and either of said Inspectors may, at any such meeting, administer to any applicant for registration, the oath or oaths provided in this Article or by law, to be administered to and taken by any such applicant, and may also administer to any elector of the election precinct who may be offered as a witness to prove the qualification of any person claiming the right to be registered, or to vote, the following oath: " You do swear (or affirm) that you are an elector of this election precinct, that you will fully and truly answer all such questions as shall be put to you touching the place of residence and other qualifications as an Elector of the person (name to be given) now claiming the right to be registered (or to vote) of this precinct."

SEC. 51. For all powers, authority and duties in this Article prescribed for and conferred upon, and all action required of Inspectors of election or Boards of Elections, save where such authority or action is specifically allowed to any of said Inspectors, the concurrence or assent of a majority of all the Inspectors of election in any election precinct, must in all cases be obtained.

SEC. 52. The Inspectors of Election in each election precinct in this city and county, while discharging any of the duties imposed upon them by this Article shall have full authority to preserve order and enforce obedience to their lawful commands at and around the place of registration, or election or canvass or return of canvass; to keep the access to such place open and unobstructed, to prevent and suppress riots, tumult, violence, disorder and all other improper practices tending to the intimidation or obstruction of voters, the disturbance or interruption of the work of registration or voting, or the canvass, or return of votes; and to protect the voters and

challengers from intimidation or violence, and the registers, poll books, boxes and ballots from violence and fraud, and shall appoint or deputize, if necessary, one or more electors to communicate their orders and directions, and to assist in the enforcement thereof.

SEC. 53. Any Inspector of Election, Clerk or other officer of election shall at any time during the five weeks preceding the day of any general or special election held in said city and county, have full power and authority to make a thorough and effective canvass of the election precinct in and for which he has been or was designated to serve and act upon any day of registration, or election, and to make full inquiry in respect to any and every male resident of any dwelling, building or other place of abode in any such election precinct, his age, term of residence and qualifications as a voter; but the power and authority by this section conferred upon any Inspector, Clerk, or other officer of election, shall wholly cease upon his resignation, removal from the city and county, or removal from the office or position to which he was appointed.

SEC. 54. Any person who is a qualified voter in this city and county, may upon any day of registration or of election, challenge and contest the right of any person to be registered in any election precinct or to vote at any poll in said city and county, or may require the name of any registered person to be marked for challenge, and on any such day or days shall be entitled to be heard by the Board of Precint Registration in any election precinct in relation to corrections of or additions to the Register.

SEC. 55. All of the present and future provisions of the General Election Laws of this State touching the registration and qualification of voters and the method of calling, holding and conducting elections, the canvassing of votes and the making and certifying of returns, so far as they are not inconsistent with the provisions hereof, shall be applicable to said city and county, until repealed or modified; *provided*, however, that the Boards of Election shall make their returns to the Registrar instead of to the County Clerk, and the Board of Election Commissioners shall canvass the returns instead of the Board of Supervisors.

SEC. 56. It shall be unlawful for any committee, club, convention, or other association, formed, or acting as such, for the purpose of nominating a candidate, or candidates for office in said city and county, upon any pretence whatsoever, to levy, assess, collect, demand, or receive, directly or indirectly, any money, or other valuable thing, from any candidate or candidates coming before such body for a nomination, or who

shall be nominated by them for office. Any officer or member of any such convention, committee, club, or association, or other person, who shall vote for, authorize, assist, or consent to any such demand, levy assessment, or collection, and any candidate or person who shall pay the same, shall be guilty of a misdemeanor.

SEC. 57. All payments and contributions of money for election expenses made by candidates for office in said city and county, shall be assessed and made by such candidates by voluntary assessment among themselves at meetings of all the candidates of the party to be called for such purpose, and at which meetings none but such candidates for office at the next ensuing election shall be present or participate. Any person being a candidate for office in said city and county who shall, directly or indirectly, pay, or cause to be paid, any money or valuable thing to any person, as an assessment or contribution for the expenses of the election at which such person or candidate is to be voted for, except the assessment or contribution so agreed upon by such meeting of candidates, and any person who shall ask for, demand, collect, or receive any such money, or other valuable thing, either as principal or agent for another, shall be guilty of a misdemeanor.

SEC. 58. If at any general registration of voters, or at any meeting of any Board of Precinct Registration, any person shall falsely personate an elector or other person, and register, or attempt, or offer to register in the name of such elector or other person; or if any person shall knowingly or fraudulently register, or offer, or attempt, or make application to register, in or under the name of any other person, or in or under any false, or assumed, or fictitious name, or in or under any name not his own; or shall knowingly or fraudulently register in two election precincts; or having registered in one precinct, shall fraudulently attempt or offer to register in another; or shall fraudulently register, or attempt, or offer to register in any election precinct, not having a lawful right to register therein; or shall knowingly, or willfully, do any unlawful act to secure registration for himself or any other person; or shall knowingly, willfully or fraudulently, by false personation, or otherwise, or by any unlawful means cause or procure or attempt to cause or procure the name of any qualified voter in any election precinct to be erased or stricken from any registry of the voters of such precinct; or by force, threats, menace, intimidation, bribery, reward, or offer or promise thereof, or other unlawful means, prevent, hinder, or delay, any person having a lawful right to register or to be registered, from duly exercising such right; or who shall knowingly, willfully, or fraudulently, compel or induce, or attempt, or offer, to compel, or induce by such means or

any unlawful means any Inspector or other officer of registration in any election precinct to register or admit to registration any person not lawfully entitled to registration in such precinct, or to register any false, assumed or fictitious name, or any name, or any person except as provided in this Article or by law, or shall knowingly or wilfully or fraudulently interfere with, hinder or delay any Inspector or other officer of election or any officer of registration in the discharge of his duties or counsel or advise or induce or attempt to induce any such Inspector or other officer to refuse or neglect to comply with or to perform his duties or to violate any law prescribing or regulating the same; or shall aid, counsel, procure, or advise any person, voter, Inspector, or other officer of registration to do any act by law forbidden, or in this Article constituted an offense, or to omit to do any act by law or this Article directed to be done, every such person shall upon conviction thereof be adjudged guilty of a felony.

SEC. 59. If at any election hereafter held in said city and county any person shall falsely personate any elector or other person and vote or attempt or offer to vote in or upon the name of such elector or other person; or shall vote or attempt to vote in or upon the name of any other person, whether living or dead, or in or upon any false or assumed or fictitious name, or in or upon any name not his own; or shall knowingly, wilfully or fraudulently vote more than once for any candidate for the same office at the same election, or shall vote or attempt or offer to vote in any election precinct without having a lawful right to vote therein, or vote more than once or vote in more than one election precinct, or having once voted shall vote or attempt or offer to vote again, or shall knowingly, wilfully, or fraudulently do any unlawful act to secure a right or an opportunity to vote for himself or any other person; or shall by force, threat, menace, intimidation, bribery, or reward or offer or promise thereof or otherwise unlawfully, either directly or indirectly, influence or attempt to influence any elector in giving his vote or prevent or hinder or attempt to prevent or hinder any qualified voter from freely exercising the rights of suffrage, or by any such means induce or attempt to induce any such voter to refuse to exercise any such right, or shall by any such means or otherwise compel or induce, or attempt to compel or induce, any Inspector of Election or other officer of election in any election precinct to receive the vote of any person not legally qualified or entitled to vote at said election in such precinct; or shall knowingly, wilfully or fraudulently interfere with, delay or hinder in any manner any Inspector, Clerk, or other officer of election in the discharge of his duty; or by

any of such means or other unlawful means knowingly, willfully or fraudulently counsel, advise, induce or attempt to induce any officer of election whose duty it is to ascertain, proclaim, announce, or declare the result of any such election, or to give or make any certificate, document, report, return, or other evidence in relation thereto, to refuse or neglect to comply with his duty, or to violate any law regulating the same or to receive the vote of any person in any election precinct not entitled to vote therein, or to refuse to receive the vote of any person entitled to vote therein; or shall aid, counsel, advise, procure or assist any voter, person or officer of election to do any act by law or by this Article forbidden or constituted an offence, or to omit to do any act by law or this Article directed to be done; every such person shall upon conviction thereof be adjudged guilty of a felony.

SEC. 60. If any Clerk or Inspector performing the duties of clerk, shall wilfully keep a false poll list, or shall knowingly insert in his poll list any false statement or any name or statement or any check, letter, or mark, excepting as in this Article or by law provided, he shall upon conviction thereof be adjudged guilty of a felony.

SEC. 61. Every officer of election who shall wilfully exclude any vote duly tendered, knowing that the person offering the same, is lawfully entitled to vote at such election or shall wilfully receive a vote from any person who has been duly challenged in relation to his right to vote at such election without exacting from such person such oath or other proof of qualification as may be required by law, or who shall wilfully omit to challenge any person offering to vote, whom he knows or suspects not to be entitled to vote, and who has not been challenged by any other person, shall upon conviction thereof, be adjudged guilty of a felony.

SEC. 62. Every officer of election, messenger, clerk, or other officer authorized to take part in or perform any duty in relation to any canvass or official statement of the votes cast at any election who shall wilfully make any false canvass of such votes, or shall make, sign, or publish or deliver any false return of such election, or any false certificate or statement of the result of such election, knowing the same to be false, or who shall wilfully deface, destroy or conceal any statement or certificate entrusted to his care or custody, shall on conviction thereof, be adjudged guilty of a felony.

SEC. 63. If any person other than an Inspector shall at any such election knowingly or willfully put, or cause to be put any ballot or Ballots or other paper having the semblance thereof, into any box used at such election for the reception of votes; or if any such Inspector shall knowingly or wilfully cause or permit any ballots to be in said box at the opening of the polls and before voting shall

have commenced; or shall knowingly or wilfully or fraudulently put any ballot or other paper having the semblance thereof, into any such box at any such election, unless the same shall be offered by an elector and deposited in the box in the manner provided by law; or if any such Inspector or other officer or person shall fraudulently, during the canvass of ballots, in any manner change, substitute or alter any ballot taken from the box then being canvassed, or from any box which has not been canvassed; or shall remove any ballot or semblance thereof, therefrom, or add any ballot or semblance thereof, to the ballots taken from the box then being canvassed, or from any box which has not been canvassed; every such person shall, upon conviction thereof, be adjudged guilty of felony.

SEC. 64. If any officer of registration, election or canvass, of whom any duty is required by this Article or by the general election laws of this State, so far as the same are consistent with the provisions of this Article, shall be guilty of any willful neglect of such duty, or of any corrupt or fraudulent conduct or practice in the execution of the same, he shall on conviction thereof, be adjudged guilty of a felony.

SEC. 65. Every Inspector, Clerk, Officer or person having the custody of any record, register of voters or copy thereof, oath, return of vote, or certificate, or of any paper, document or evidence of any description, in this Article directed to be made, filed or preserved, who shall be guilty of stealing, wilfully destroying, mutilating, defacing, falsifying or fraudulently removing or secreting the whole or any part thereof, or who shall fraudulently make any entry, erasure or alteration therein, except as allowed and directed by law or the provisions of this Article, or who permits any other person so to do, shall upon conviction thereof, be adjudged guilty of a felony.

SEC. 66. Every person not an officer such as is mentioned in the last preceding section, who is guilty of any of the acts specified in said section, or who advises, procures, or abets the commission of the same, or any of them, shall be guilty of a felony.

SEC. 67. Any person who shall be convicted of willful, corrupt and false swearing or affirming in taking any oath or affirmation prescribed by, or upon any examination provided for, in this Article, or upon being challenged as unqualified, when offering to register or vote, shall be adjudged guilty of perjury.

SEC. 68. Every person who shall wilfully or corruptly instigate, advise, induce or procure any person to swear or affirm falsely as aforesaid, or attempt or offer to do so, shall be adjudged guilty of subornation of perjury.

SEC. 69. If any person shall fraudulently change or alter the ballot of any elector, or substitute one ballot for another, or fraudulently furnish any elector with a ballot containing more than the proper number of names, or shall intentionally practice any fraud upon any elector to induce him to deposit a ballot as his vote and to have the same thrown out and not counted, or to have the same counted for a person as candidate other than the person or candidate for whom such elector intended to vote, or otherwise defraud him of his vote; every such person shall, on conviction thereof, be adjudged guilty of a felony.

SEC. 70. If any person who shall have been convicted of bribery or perjury or other infamous crime under this Article or the laws of this State, shall thereafter vote or offer to vote at any election in said city and county without having been pardoned and restored to all the rights of a citizen, he shall, on conviction thereof, be adjudged guilty of a felony.

SEC. 71. If any person shall wilfully disobey any lawful command of any officer of election, or of any Board of Precinct Registration or Board of Election, given in the execution of his or their duty as such, he shall upon conviction thereof, be adjudged guilty of a misdemeanor.

SEC. 72. If at any general registration of voters or on any day of election or during the canvass of the votes cast thereat, any person shall cause any breach of the peace or use any disorderly language or any violence or threats of violence, whereby any such registration, election or canvass shall be impeded or hindered or whereby the lawful proceedings of any election officer or officers or challenger are interfered with, every such person shall upon conviction thereof be adjudged guilty of a misdemeanor.

SEC. 73. If any person shall, knowingly or wilfully obstruct, hinder or assault, or by bribery, solicitation or otherwise interfere with any officer of election or challenger, in the performance of any duty required of him or which he may by law be authorized or permitted to perform; or if any person by any of the means before mentioned or otherwise shall unlawfully on any day of registration or of election hinder or prevent any officer of election or challenger, in his free attendance and presence at the place of registration or of election in the election precinct in and for which he is appointed to serve, or in his full and free access and egress to and from any such place of registration or election or canvass of votes or making any returns or certificate thereof, or shall molest, interfere with, remove or eject from any such place of registration or poll of election or of canvassing ballots, or making returns or certificates thereof, any such officer of election or challenger, save as other-

wise herein provided, or shall unlawfully threaten or attempt or offer so to do, he shall be guilty of a misdemeanor.

SEC. 74. Any officer of election who shall wilfully neglect or when called on shall wilfully decline to exercise any of the powers or perform any of the duties conferred or imposed on him in this Article, shall be guilty of a misdemeanor.

SEC. 75. If any person shall upon the day of any such election or before the canvass of voters is completed, steal, or wilfully break or destroy any ballot box used or intended to be used at such election, or shall wilfully or fraudulently conceal, secrete or remove any such box from the custody of the Inspectors or shall alter, deface, injure, destroy, or conceal any ballot which has been deposited in any ballot box at such election, or any poll list, used or intended to be used at such election, or any report, return, certificate or other evidence in this Article or by law required, he shall on conviction thereof be adjudged guilty of a felony.

SEC. 76. If at any general registration of voters or at any election hereafter held in this city and county, any Inspector or Clerk shall knowingly or wilfully admit any person to registration or make any entry on any register of voters or poll list, or receive any vote or proceed with the canvass of ballots or shall consent thereto, unless three Inspectors in said precinct are present and concur, he shall upon conviction thereof be adjudged guilty of a misdemeanor.

SEC. 77. If any officer of election in any election precinct shall without urgent necessity absent himself from the place of registration or from the polls in said precinct upon any day of registration or election, he shall upon conviction thereof be adjudged guilty of a misdemeanor.

SEC. 78. It is hereby made the special duty of the District Attorney of this city and county to immediately prosecute to final judgment all complaints which may be made of a violation of any of the provisions of this Article, or of the election laws of this State, and the Court before which any conviction for such violation shall be had, shall not in any case suspend sentence or judgment for more than ten days.

SEC. 79. It shall be unlawful for any officer of election or challenger during the election or canvass of ballots, to have or keep any ballots within the polling places. Any violation of this section shall be a felony.

SEC. 80. If any person, during the sitting of any Board of Precinct Registration, or Board of Election, whether held for the purpose of registration, reception or canvass of votes, or making return thereof, shall bring, take, order, or send into, or shall cause to be brought, taken, ordered, or sent into,

or shall attempt to bring, take, order, or send into any place of registration, or of election, or of canvass, any distilled or spirituous liquors whatever, or shall at any such time and place drink or partake of any such liquor, he shall be guilty of a misdemeanor.

SEC. 81. Upon any prosecution for procuring, offering, or casting an illegal vote, the accused may give in evidence any fact tending to show that he honestly believed, upon good reason, that the vote complained of was a lawful one, and the Jury may take such facts into consideration in determining whether the act complained of was willfully done or not.

## ARTICLE XI.

### **Police Department.**

#### CHAPTER I.

##### OF THE POLICE COMMISSIONERS.

SECTION 1. There shall be a Board of Police Commissioners of said city and county, consisting of four members to be appointed by the Mayor, by and with the advice and consent of the Board of Aldermen, and, except the President of said Board, who shall receive a salary of two hundred and fifty dollars per month, shall serve without compensation; but in making such appointment the Mayor shall not appoint more than two members of said Board from the same political party, and in filling any vacancy that may occur in said Board the Mayor shall appoint to fill such vacancy some suitable person of the same political party as that to which the last incumbent belonged. Every member of said Board shall, before he enters on the duties of his office, take and subscribe the following oath or affirmation:

*"I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States, and the Constitution of the State of California, that I will faithfully discharge the duties of Police Commissioner according to the best of my ability, and that in the discharge of my duties I will make no appointment to or removal from the police force for political or partisan reasons, and that I will to the best of my ability discharge the duties of said office impartially and uninfluenced by political considerations, or any consideration, other than that of the public good."*

The term of office of said Commissioners shall be four years, provided, however, that the first Commissioners appointed under this Article shall, immediately after their appointment, so classify themselves by lot, that two of them

of different political faith, shall go out of office in two years after their appointment.

SEC. 2. The Police Commissioners shall meet in said city and county within ten days after their appointment, and shall organize by electing one of their number President. The sessions of said Board of Police Commissioners shall be held in said city and county, and shall be public. Said Board shall hold sessions at least once a month, in the office of the Chief of Police, or in such other convenient place as the Common Council shall designate, or in case of emergency, at such place as it shall select, and the Clerk of the Chief of Police shall act as the Clerk of said Board. Every member of said Board, the Chief of Police, and the Clerk of said Board shall have power to administer oaths in all matters pertinent to the business of their respective offices, and in all investigations pending before said Board, or any member thereof. The Board shall keep a record of its proceedings.

SEC. 3. No person shall be appointed Police Commissioner who shall not have been a citizen of the United States, and a resident and qualified elector of said city and county for at least five years preceding his appointment.

SEC. 4. Every member of the Board shall, before he enters on the duties of his office, and thereafter continuously, reside in said City and County of San Francisco ; and any member of said Board who shall, after his appointment, absent himself from said city and county for the continuous period of sixty days, shall by force thereof cease to be a Police Commissioner, and his office shall become vacant.

SEC. 5. No member of said Board shall be eligible to any other office during his incumbency of the office of Police Commissioner. No member of said Board shall, during his term of office, be a member of any convention, the purpose of which is to nominate candidates for office, nor act as judge, inspector, clerk, or officer of any election or primary election, or take part in any election except to deposit his vote; nor shall any member of said Board, directly or indirectly, influence or attempt to influence or control the political action of any member of the police force of said city and county, or any employee of said department; nor shall any member of said Board collect, or suffer to be collected from any member of the police force of said city and county, any assessment or contribution for political purposes. A violation of any of the provisions of this section shall be a misdemeanor, and shall be cause for the immediate removal from office of the person guilty of such violation.

## CHAPTER II.

## OF THE POWERS OF THE BOARD.

SECTION 1. The police force of said city and county shall be appointed by and be under the control of said Board of Police Commissioners; and said Board shall have power—

First—To appoint, suspend, or remove any person from the force of said city and county; provided, however, that the Chief of Police shall only be removable in the manner in this charter provided for removal of other officers.

Second—To prescribe all needful rules and regulations for the government and discipline of said police force, and from time to time to alter or repeal the same, and prescribe penalties for the violation of any of them.

Third—To hear and summarily determine all complaints of misconduct, inefficiency, or other charge against any member of the police force, and to take such action thereon as shall be most conducive to the maintenance of the discipline and efficiency of the same.

Fourth—To grant permits to all persons desiring to engage in the retail liquor business in said city and county, and to revoke any such permit, whenever it shall be made to appear to said Board that the retail liquor business of the person to whom such permit was given, is conducted in a disorderly or improper manner, or whenever it shall be made to appear that the person to whom such permit was granted has, after the grant of such permit, been convicted in the Police or other Court of said city and county, of disorderly or improper conduct, or of the commission of any criminal offense upon the premises whereon such retail liquor business is conducted; provided, however, that whenever said Board refuse to grant such permit, or propose to revoke such permit, the person who is refused such permit, or whose permit is proposed to be revoked, shall be entitled to be heard before said Board in person or through counsel, and to have, free of charge, all reasonable facilities for the full, fair, and impartial hearing on the merits of his application, or opposition; and provided further, that it shall not be lawful for any person to carry on the retail liquor business in said city and county, without the permit hereby authorized. In such permit, shall be distinctly stated and described the name of the person to whom the same is given, and the premises on which such retail liquor business is proposed to be carried on; that such premises shall be closed, and no retail liquor business carried on therein, after twelve o'clock midnight and before four o'clock A. M. of each day, and that for any violation of the terms of such permit, the same shall be revoked by said Board.

Fifth—To exercise supervision and control over said po-

lice force, its officers and members, and the employees of said Department, and to see that all officers, members and employees of said force faithfully discharge their duties, and that the laws, ordinances and regulations relating thereto are carried into operation and effect.

Sixth—Upon the petition of any person, firm or corporation, to appoint a special officer to do special service to be paid for by such person, firm or corporation, specifying the boundary or locality at or within which he is to act as such special officer, which boundary or locality shall be described in his warrant of appointment; *provided*, that no special officer shall be appointed to act in any part of said city and county, commonly known as the Chinese Quarter; *provided further*, that all special officers shall report daily to the Chief of Police, and be subject to his orders in case of emergency, and in no event shall such officers be paid by the city and county.

Seventh—To prescribe the badge of office and uniform to be worn by all members of the police force of said city and county, and the badge of office to be worn by all special officers.

Eighth—To allow and order paid out of the Police Contingent Fund for contingent expenses, any and all orders signed by the Chief of Police; *provided*, that the aggregate of such orders shall not exceed the sum of seven thousand two hundred dollars a year, which sum shall be set apart annually in the Treasury of said city and county for this purpose.

Ninth—To require the City Physician to examine all applicants for appointment on said police force, and to report to the Board thereon.

Tenth—To appoint substitutes, not to exceed five per cent of the police force, to serve under such regulations, and subject to such restrictions as may be prescribed by the Board, and without pay from said city and county.

Eleventh—To issue subpœnas, tested in the name of its President; to compel the attendance of witnesses and production of papers upon any proceeding authorized by the rules and regulations of the Board, any of the provisions of this Charter, or any law of this State, and to enforce obedience thereto, and punish disobedience thereof, in the same manner and to the like extent as the Justices' Court of said city and county.

Twelfth—To exercise the same powers as the Justices' Court of said city and county in preserving decorum in all open sessions of the Board, and to punish any contempt committed thereof.

Thirteenth—To determine within what districts the police force shall be distributed and employed; to designate the

prisons to be used for the reception of all persons arrested convicted, or sentenced for public offenses, in cases not provided for by law or by ordinance; to establish stations and station houses, or sub-stations and sub-station houses, at its discretion, for the accommodation thereat of members of the police force, and as places of temporary detention for persons arrested.

Fourteenth—Upon any emergency or apprehension of riot, tumult, mob, insurrection, pestilence, or invasion, to appoint as many special patrolmen, without pay, from among citizens, as it may deem desirable. During the service of any such special patrolman, he shall possess all the powers, privileges, and perform all the duties that may be by rules or regulations from time to time prescribed; and every such patrolman shall wear a badge, to be prescribed and furnished by the Board.

Fifteenth—In its discretion, on conviction of a member of the force of any legal offense, or neglect of duty, or violation of rules of the Board, or neglect of or disobedience of orders, or incapacity, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct, or conduct unbecoming an officer, or other breach of discipline, to punish the offending party, by reprimand, forfeiting and withholding pay for a specified time, or dismissal from the force; but no more than ten days' pay shall be forfeited and withheld for any one offense. All such fines shall be immediately paid into the Treasury, to the account of the Police Life and Health Insurance Fund.

Sixteenth—To issue to every member of the police force a proper warrant of appointment, signed by the President and countersigned by the Clerk of the Board, which warrant shall contain the date of his appointment and his rank.

Seventeenth—To make requisition on the Common Council of said city and county, for all supplies or necessaries that may be required in the administration of the Department; *provided*, that all such requisitions, exclusive of salaries, shall not, in any one fiscal year, exceed the sum of five thousand dollars.

Eighteenth—To annually, on or before the first day of August, report to the Common Council an estimate of the amount of money that will be required to pay all salaries of the Department for the ensuing fiscal year, and a like estimate of the amount of money that will be required for the administration and support of the Department in such year, specifying in detail the purposes and items for which the same will be required, with the estimated cost thereof respectively.

Nineteenth—To provide for the custody, care, restitution, sale, time, place and manner of sale, of all property that

may come into the possession of the Property Clerk, and to provide for the destruction of such property as hereinafter specified.

Twentieth—To provide for the care, management, investment or disposition of the Police Life and Health Insurance Fund, and to order paid out of the same, the sums herein-after provided.

Twenty-first—To make all necessary and proper rules and regulations for carrying into execution the foregoing powers and all other powers vested by this Charter, or any ordinance passed pursuant thereto, or the Constitution or laws of this State, in said Department.

SEC. 2. It shall be the duty of the Board, on the reasonable demand of any person whose interests are pending for investigation or examination before said Board, free of charge, to compel the attendance of such persons as may reasonably be necessary to enable him to assert or protect his rights, in such pending examination or investigation, and for this purpose it shall depute such officer or officers of the police force as may be necessary.

SEC. 3. The President of the Board shall have power to convene the Board at such time and upon such reasonable notice as he may deem fit; and the decision of any three members shall be the decision or order of the Board. The Clerk shall have custody of all the records and official documents of the Board.

### CHAPTER III.

#### OF THE POLICE FORCE AND SALARIES.

SECTION 1. The police force of said city and county shall consist of—

First—The Chief of Police, at a salary of four thousand dollars a year, whose term of office shall be four years from the date of his appointment.

Second—Six Captains of Police, at a salary of one hundred and fifty dollars per month, each.

Third—As many police officers, not exceeding four hundred, as the Board may determine to be necessary. Said police force shall not be increased at any time during the ten years next succeeding the adoption and approval of this Charter; but at every succeeding period of ten years, should the increase of population and the public interest so require, said Board shall have power to increase said force, at the rate of two additional policemen for every thousand population of said city and county additional to that existing at the beginning of the last preceding ten years; *provided*, such increase in no one period of ten years shall exceed one hundred additional policemen.

Fourth—The salary of each policeman shall be one hundred and two dollars per month, except that the one detailed to act as Clerk of the Chief of Police, and the one detailed to act as Property Clerk shall each receive a salary of one hundred and fifty dollars per month; such police officers as may be detailed to act as detectives, not to exceed twelve in number, at a salary of one hundred and twenty-five dollars per month each, and such police officers as may be detailed to act as Sergeants of Police, not to exceed twenty-five in number, each of whom shall receive a salary one hundred and seventeen dollars per month; such police officers, not to exceed twelve, as may be detailed to act as Corporals of Police, each of whom shall receive a salary of one hundred and ten dollars per month; *provided*, however, that out of and from the salary of each member of said police force, the Treasurer of said city and county is hereby authorized to deduct and retain two dollars from every month's salary, to be paid into a fund to be known as the "Police Life and Health Insurance Fund," which Fund shall be administered as hereinafter provided.

SEC. 2. In making appointments to said police force the Board shall not regard the political or partisan preference or affiliations of the candidates, and it shall be its duty on its organization to appoint as members thereof, the members of the police force then in service, unless such members be incompetent, or be incapable to serve.

SEC. 3. Every appointee to said police force must be a citizen of the United States, and of this State, of good character for honesty and sobriety, able to read and write the English language, and a resident of said city and county at least five years previous to his appointment; except such member of said police force as may be in service at the time this charter goes into effect, every appointee shall not be less than twenty-five years, nor more than forty years of age, and not less than five feet seven inches in height, and shall after his nomination, and before his appointment, pass a thorough examination by the City Physician appointed for that purpose by said Board, and be found on such examination to be in sound health, and to possess the physical qualifications required for recruits for the United States Army. Applicants for appointment on such force, except such as may be members of the same in service at the time this Charter goes into effect, shall produce and file with the Board, a certificate signed by not less than twelve freeholders and qualified voters of the smallest political subdivision of the said city and county, stating that they have been personally and well acquainted with the applicant for one or more years next preceding the application, and that the applicant is of good

repute for honesty and sobriety, and they believe him to be in all respects competent, and fit for the office.

## CHAPTER IV.

### OF THE CHIEF OF POLICE.

SECTION 1. In the suppression of any riot, public tumult, disturbance of the public peace, or organized resistance against the laws or public authority, in the lawful exercise of his functions the Chief of Police shall have all the powers that are now, or may be conferred on Sheriffs by the laws of this State, and his lawful orders shall be promptly executed by all police officers in said city and county; and every citizen shall, when required, lend him aid for the arrest of offenders, and the maintenance of public order. He shall keep a public office which shall be open, and at which, in case of his necessary absence, a Captain of Police, or police officer, by him designated for that purpose, shall be in attendance at all hours, day and night. In case of his necessary absence from his office, it shall be made known to the police officer in attendance where he can be found, if needed. He shall designate one or more police officers to attend constantly on the Police Court and to execute its orders and process. He shall detail and remove at his pleasure, policemen to act as Prison Keepers and as Property Clerk of said city and county. He shall supervise and direct the police force, and shall observe and cause to be observed the provisions of this Charter, and enforce within said city and county all laws of this State applicable thereto, and all ordinances of said city and county, and all rules and regulations prescribed by the Board of Police Commissioners. He shall see that the lawful orders and process issued by the Police Court are promptly executed, and shall exercise such other powers connected with his office as Chief of Police as may be prescribed in the general regulations of the Board. He shall acquaint himself with all statutes and laws in force in this State, defining public offences and nuisances, and regulating criminal proceedings, and shall procure and keep in his office the statutes of this State and of the United States, and all elementary works on that subject. He shall give information and advice touching said laws gratuitously to all police officers and magistrates asking for it.

SEC. 2. In cases of great public emergency or danger, the Chief of Police may appoint an additional number of policemen of approved character for honesty and sobriety, who shall have the same powers as other police officers, for twenty-four hours only, but without pay.

SEC. 3. The Chief of Police shall have power from time to time, to dispose of such sum or sums for incidental expenses as in his judgment shall be for the best interest of said city and county, provided that the aggregate of all such sums shall not in any one fiscal year exceed the sum of seven thousand two hundred dollars, but all sums so disbursed or paid shall be subject to the approval of the Board.

SEC. 4. Under the direction of the Board, the Chief of Police shall have full control and direction of all members of said police force, with full power to detail any of them to such service as he may direct, and with like power to temporarily suspend any officer on said police force, but in all cases of such suspension, he shall promptly report the same in writing to the Board, with the reasons therefor.

SEC. 5. The Chief of Police, Captain and every officer upon said police force shall provide himself with uniform, to be prescribed by the regulations of the Board, which shall be worn by him on all occasions, while on regular duty, with such exceptions as may be permitted by the Chief of Police in the performance of detective duty. It shall be the duty of the Chief of Police to maintain and enforce rigid discipline, so as to secure the complete efficiency of said police force.

## CHAPTER V.

### OF THE DUTIES OF POLICEMEN.

SECTION 1. Police officers, in subjection to the orders of their respective Captains, and all, under the general direction of the Chief of Police, shall be prompt and vigilant in the detection of crime, the arrest of public offenders, the suppression of all riots, frays, duels, and disturbance of the public peace, the execution of process from the Police Court, in causing the abatement of public nuisances, and the enforcement of the laws and all ordinances of said city and county.

SEC. 2. Each member of the police force, under the penalty of a fine of ten days' pay or dismissal from the force, at the discretion of the Board, shall, immediately upon an arrest, convey in person the offender before the nearest sitting magistrate, that he may be dealt with according to law. If the arrest is made during the hours that the magistrate does not regularly hold Court, or if the magistrate is not holding Court, such offenders may be detained in a station house, until the next public sitting of the magistrate, and no longer, and shall then be conveyed without delay before the magistrate, to be dealt with according to law; and it shall be the duty

of the Board to provide certain rules and regulations to prevent the undue detention of persons arrested.

SEC. 3. Each member of the police force shall take and subscribe the constitutional oath of office, before entering upon the duties of his office.

SEC. 4. It shall be the duty of every police officer on the arrest of any notorious and dangerous offender, or any person charged with the commission of a grave crime, to search the person of such offender, and take from him all property and weapons, and to forthwith deliver the same to the Property Clerk, to be by him kept until other disposition be made thereof, according to law.

SEC. 5. No member of the police force shall be eligible to any other office while a member of such force, nor shall he take any part whatever in any convention held for the purposes of a political party; nor shall he be a member of any political club. No member of said police force shall be allowed to interfere with politics on the day of election, or at any time while employed on said force. No member of said police force, while on duty, shall enter into any liquor saloon, bar-room, or place where liquors are retailed, except in the discharge of his duties. Any violation of any of the provisions of this section shall constitute a misdemeanor, and any member of said police force guilty of the violation of the same shall be removed from office.

SEC. 6. No member of the police force shall devote his time to any other profession or calling, become bail for any person charged with any offense whatever, solicit counsel or attorneys for prisoners, receive any present or reward for official services rendered, or to be rendered, unless with the knowledge and approbation of a majority of the Board, such approbation to be given in writing; nor be allowed pay for any period during which he shall absent himself from public duty, unless such absence necessarily results from sickness, or disability occasioned by injuries received in the discharge of his official duty.

SEC. 7. Any officer, except when permitted so to do by written order of the Chief of Police, asking for, soliciting, demanding, collecting, or receiving, or causing others to do so for his benefit, any money or other valuable thing, on pretence of guarding or protecting the person, or property of the person from whom the same shall be asked, demanded, solicited, collected, or received, shall be guilty of a misdemeanor and dismissed from the service.

## CHAPTER VI.

### OF THE REMOVAL OF POLICE OFFICERS.

**SECTION 1.** Any member of the police force, other than the Chief of Police, guilty of any legal offense, neglect of duty, violation of rules, or neglect or disobedience of orders, or incapacity, or absence without leave, or conduct injurious to the public peace or welfare, or immoral conduct, or conduct unbecoming an officer, or other breach of discipline, shall be liable to be punished by reprimand, withholding pay for a specified time, or dismissal from the force; but no more than ten days' pay shall be forfeited or withheld for any one offense.

**SEC. 2.** Members of the police force, other than the Chief of Police, shall be subject to removal or punishment for any of the reasons specified in the preceding section, only upon trial before the Board of Police Commissioners. Charges of official negligence, inefficiency, misconduct, oppression, or any of the causes in the preceding section specified, when presented by the Chief of Police, or a Captain, or a Sergeant of Police, or in a verified complaint, by a citizen of said city and county, setting forth the specific acts complained of, shall be received and attentively considered and determined by the Board, giving to the accused such reasonable notice as it may prescribe, and an impartial hearing in defense; and upon such hearing the accused shall have the right to be heard in person or by counsel. Upon any trial, as provided for in this section, it shall be the duty of the Board to furnish the accused with all reasonable facilities for the conduct of his defense, and to secure to him, free of charge, the attendance of all witnesses reasonably necessary for his defense.

The Chief of Policemay, for official misconduct, be punished or removed from office, as otherwise provided in this Charter, or by law.

## CHAPTER VII.

### OF LOST OR STOLEN PROPERTY.

**SECTION 1.** All property or money alleged or supposed to have been feloniously obtained, or which has been lost or abandoned, and which shall hereafter be taken into the custody of any member of the police force or any Criminal Court in the City and County of San Francisco, or which shall come into the custody of any Police Judge, shall be by such member, Judge, or Court, given into the custody of, and kept by the Property Clerk of said city and county. All such property and money shall be particularly regis-

tered by such Clerk, in a book kept for that purpose, which shall contain also the record of the names of the persons from whom such property or money was taken, the names of all claimants thereto, the time of the seizure, and any final disposition of such property and money.

SEC. 2. Whenever property or money shall be taken from persons arrested, and shall be alleged to have been feloniously obtained or to be the proceeds of crime, and whenever so brought with such claimant and the person arrested before some judge or court for adjudication, and the judge or court shall be then or there satisfied from evidence that the person arrested is innocent of the offence alleged, and that the property rightfully belongs to him, said Court or Judge may thereupon, in writing, order such property or money to be returned, and the Property Clerk, if he have it, to deliver such property or money to the accused person himself, and not to any attorney, agent, or clerk of such accused person.

SEC. 3. If any claim to the ownership of such property or money shall be made on oath before such judge or court, by or on behalf of any person other than the person arrested, and the said accused person shall be held for trial or examination, such property or money shall remain in the custody of the Property Clerk until the discharge or conviction of the person accused.

SEC. 4. All property or money taken on suspicion of having been feloniously obtained, or being the proceeds of crime, and for which there is no other claimant than the person from whom such property was taken, and all lost property coming into the possession of any member of said police force, and all property and money taken from pawn-brokers as the proceeds of crime, or by any such member taken from persons supposed to be insane, intoxicated, or otherwise incapable of taking care of themselves, shall be transmitted as soon as practicable to the Property Clerk, to be registered and advertised for the benefit of all persons interested and for the information of the public, as to the amount and disposition of the property so taken into custody by the police.

SEC. 5. All property and money that shall remain in the custody of the Property Clerk for the period of six months, without any lawful claimant thereto, after having been three times advertised in two newspapers, one of which shall be the official newspaper shall be sold at public auction, and the proceeds of such sale shall be paid into the "Police Life and Health Insurance Fund," in the Treasury of said city and county; *provided*, however, that whenever it may be necessary to use such property as evidence upon any criminal prosecution, the same shall not be sold or disposed of as herein authorized, until the occa-

sion for the use thereof, as evidence, shall have ceased, and thereupon it shall be disposed of as hereinbefore provided; *provided further*, however, that the Board of Police Commissioners, except where herein otherwise expressly provided, may order, in writing, said Property Clerk to restore any of said property to the lawful owner thereof; and *provided further*, that whenever it shall appear to the Board to be for the best interest of the public, it may direct the destruction of such of said property as shall consist of lottery tickets, obscene literature or of implements and property used in the commission of crime; and *provided further*, that the proceeds of property taken as aforesaid from persons supposed to be insane, shall not permanently become part of said Fund until after the expiration of two years from the time when the same shall come into the Treasury; it shall be the duty of the Chief of Police and of said Board immediately after the seizure or finding of any property of any such supposed insane person to diligently endeavor to find out the guardian or other person lawfully entitled to the possession of such property, or the proceeds thereof, and to restore the same to him; but if such person cannot be found and the proceeds of said property shall remain unclaimed for said period of two years, then the same shall permanently become part of said Fund.

SEC. 6. If any property or money placed in the custody of the Property Clerk shall be desired as evidence in any Police Court or other Court, such property shall be delivered to any officer who shall present an order to that effect from such Court. Such property, however, shall not be retained in such Court, but shall be returned to said Property Clerk, to be disposed of according to the provisions of this Article.

## CHAPTER VIII.

### OF THE POLICE LIFE AND HEALTH INSURANCE FUND.

SECTION 1. The Police Life and Health Insurance Fund shall consist of the moneys retained from the monthly salaries of the members of the police force, fines collected from members of said force, the proceeds of all lost, or stolen property, unclaimed, and such other moneys as may be contributed thereto by law, ordinance of said city and county, or by gift, devise, or bequest. Said Fund together with all moneys in the Treasury of said city and county to the credit of said Fund at the time when this Charter goes into effect, shall be under the control and management of the Board of Police Commissioners.

SEC. 2. The Board shall from time to time, as in its judgment it may deem best, invest the moneys of the Police

Life and Health Insurance Fund in such of the following securities as shall seem most safe and profitable: the bonds of the City and County of San Francisco; the bonds of the State of California; the bonds of the United States of America. The securities shall be held by the Treasurer of said city and county, and he shall have no power to deposit, pledge, or in any other way part with said securities, or the evidence thereof, except on the order of said Board. Upon making any such investment the Board shall immediately report the same, with all particulars thereof to the Auditor.

SEC. 3. Upon the death of any member of said force there shall be paid by the Treasurer, upon the order of said Board, out of said Police Life and Health Insurance Fund, to the heirs of said police officer, the sum of one thousand dollars.

SEC. 4. In case any police officer shall resign by reason of bad health, or bodily infirmity, there shall be paid to him in like manner from said fund, the amount of the principal sum which he shall have contributed thereto.

SEC. 5. In case of dismissal of any police officer for mere incompetency, not coupled with any offense against the laws of the State, such officer shall be paid in like manner from said fund, such amount as the Board of Police Commissioners may award, not exceeding one-half of the sum he may have contributed to said fund.

SEC. 6. Any officer dismissed for gross neglect, or violation of duty, or upon conviction of any misdemeanor or felony, shall forfeit all claim upon said fund.

SEC. 7. In case such fund shall not be sufficient to pay the demands on it, such demands shall be registered, and paid in their order out of the funds as received.

SEC. 8. The property clerk of said city and county shall before entering on the duties of his office, give bond, with good and sufficient sureties, in the sum of ten thousand dollars, to the City and County of San Francisco, to be approved as in cases of other official bonds, which bond shall be filed with the Auditor. All persons aggrieved by any official misconduct, or neglect, of said property clerk, shall have the right to maintain an action upon said bond, in their own name, for the recovery of such damage as they may have sustained, not exceeding the amount of said bond.

## CHAPTER IX.

### OF THE FIRE MARSHAL.

SECTION 1. It shall be the duty of the Board of Police Commissioners to designate a Sergeant of Police, who shall perform the duties of, and be known as, the Fire Marshal of

the City and County of San Francisco. Such Fire Marshal shall not be required to perform any other police duty.

SEC. 2. It shall be the duty of said Fire Marshal to attend all fires which may occur in said city and county, with a badge of office conspicuously displayed; to take charge of and protect all property which may be imperiled at any such fire, and safely keep the same under his control until demand therefor by the owner thereof; he shall, as far as practicable, prevent such property from being injured; direct, when in his opinion it shall be necessary, the removal of goods, merchandise and other property to a place of safety; investigate into the cause of such fires as occur in said city and county; and in all cases where he shall believe that a crime has been committed, make a written report of such investigation to the District Attorney, whose duty it shall be to institute criminal prosecutions where it shall appear from such report that there is probable cause for believing the fire has been caused by design. It shall be the duty of said Marshal to aid in the enforcement of the fire ordinances of said city and county, and for this purpose, and he shall visit and examine all buildings in process of erection or undergoing repairs; institute prosecution for all violations of any of the ordinances of said city and county relating to the erection, alteration or repair of buildings and the prevention of fires, and he shall have and exercise all the powers of Fire Warden.

SEC. 3. Said Marshal shall exercise such additional powers, and perform such additional duties, as may be prescribed by any ordinance of the city and county.

SEC. 4. He shall have power to appoint such policemen as may be detailed therefor by the Chief of Police, or who may be present at any fire, to save and protect property at such fire until the same shall be delivered to the owner thereof.

SEC. 5. He shall have power to hold and sell or cause to be sold at public auction all property in his possession saved from fire, for which no owner can be found, after advertising the same in two daily newspapers of general circulation published in said City and County, for the period of thirty days; *provided*, however, that if upon application of said Fire Marshal to the Police Judge, it shall be made to appear that such property is perishable, such Judge may order said Fire Marshal to make the sale thereof upon such notice as in the opinion of said Judge may be reasonable. The proceeds of all such sales, together with an account thereof, after deducting all expenses of such sales and custody, shall be by him deposited with the Treasurer, to be held by him subject to the claim of the owner of such property.

SEC. 6. The Fire Marshal shall, on the first Monday of every month, file with the Clerk of the Common Council, a sworn statement and description of all property in his possession or under his control, or sold by him during the preceding month, together with the amount of money by him deposited with the Treasurer, as proceeds of property so sold.

SEC. 7. Any person who shall wilfully hinder or obstruct said Fire Marshal, or any of his appointees, in the lawful discharge of his or their duties, shall be guilty of a misdemeanor; *provided*, however, that nothing herein contained shall be so construed as to authorize said Fire Marshal to interfere in any manner with the proper discharge of the lawful duties and authority of the Chief Engineer of the Fire Department.

SEC. 8. It shall be the duty of the Chief of Police to detail such police officers as shall be necessary to enable said fire Marshal to effectually perform his duties, and they shall aid him in the performance of his duties.

## ARTICLE XII.

### **Finance and Revenue.**

#### CHAPTER I.

##### OF THE TREASURY.

SECTION 1. All moneys arising from taxes, licenses, fees, fines, penalties, and forfeitures, and all moneys which may be collected or received by any officer of said city and county or any Department thereof, in his official capacity, for the performance of any official duty, and all moneys accruing to said city and county from any source whatever, and all moneys which are directed by law, or by this Charter to be paid or deposited in said Treasury, shall be paid into the Treasury thereof; and all Officers or persons collecting or receiving such moneys must pay the same into the Treasury; and no Officer or person other than the Treasurer of said city and county, shall pay out or disburse such moneys, or any part thereof, upon any allowance, claim, or demand whatever.

SEC. 2. All fees, charges and compensation, of whatever nature, that may be received by any officer in the discharge of or for the duties of his office, shall be paid into the City and County Treasury; and no officer shall retain any portion of any moneys received by him by virtue of his office, as or for his fees, charges, commission, percentage or compensation, or for the purpose of reimbursing himself for any payment made to any deputy, assistant or employee or for any expense incurred by him;

but he shall present his demand for such payment or expense, properly certified, to be audited and paid out of the Treasury in the same manner as other demands upon the Treasury. Every officer who is entitled to collect any fees or compensation shall, before receiving his monthly salary, make an affidavit, which shall be indorsed upon his demand for said salary, that he has paid into the Treasury all fees and charges, of any nature, which have been collected or received by him by virtue of his official duties; *provided*, that the commissions or percentages which may be allowed by competent authority for the collection of poll-taxes, shall be exempt from the requirements of this section.

SEC. 3. It shall be, and is hereby made the duty of all officers who are authorized by law or ordinance to charge and collect or receive fees, commissions, percentages, or other compensation for official services or for expenditures, to keep a book or books, in which shall be entered by items the amount received for all official services performed by them or their deputies or employees, showing the date and nature of such services, which book or books shall, at all times during office hours, be open to the inspection of any citizen; and each of said officers shall, at the expiration of each month, make out and verify by oath and file with the Auditor, a full and accurate transcript from his said book or books of the entries for the preceding month.

SEC. 4. The Treasurer of said city and county, on receiving any money into the Treasury, shall make out and sign two receipts for said money; said receipts shall be exactly alike in tenor and form, except, that upon the face of one of said receipts shall appear the word "original," and upon the face of the other shall appear the word, "duplicate"; said receipts shall be numbered, and dated, and shall specify the amount, on what account, and from what person or officer received, and into what fund or account paid. He shall also enter in brief upon the stubs from which said receipts are taken, a memorandum of the contents thereof, and preserve the same in his office. He shall then deliver the receipt marked "original," to the person or officer paying said money into the Treasury, and shall forthwith deliver the receipt marked "duplicate," to the Auditor of said city and county. The Auditor shall write upon the face of said receipt the date of its delivery to him, and shall charge the Treasurer with the amount specified therein, and shall file said receipt in his office.

SEC. 5. The holder of the receipt marked "original," shall present the same to the Auditor to be countersigned by him. The Auditor, before countersigning such receipt, shall

compare it with the "duplicate" thereof on file in his office, and shall make an entry in a book of record to be kept by him for that purpose, of the number, date, and amount, and in whose favor given, and on what account, and to what Fund or account charged and credited. No such receipt shall be valid in favor of the person or officer receiving it, until presented to the Auditor, and countersigned as aforesaid.

SEC. 6. No payment can be made from the Treasury unless the same be specifically authorized by this Charter, or by law, nor unless the demand duly audited and allowed as in this Charter provided, and such auditing and allowance must appear upon the face of the demand.

SEC. 7. Every lawful demand upon the Treasury, duly audited and allowed as in this Charter required, shall in all cases be paid on presentation, and on payment canceled with a punch, cutting the word "canceled" therein, and the proper entry thereof be made; but the allowance or approval by the Auditor, or by the Common Council, or by any Board, or Officer, of any demand which upon the face of it appears not to have been expressly made by law or by this Charter payable out of the treasury, or fund charged therewith, shall afford no warrant to the Treasurer for paying the same.

SEC. 8. The Treasurer shall not at any time or in any manner, loan out of the Treasury, upon any security or otherwise, any money or moneys apportioned or belonging to any Sinking Fund or Interest Fund.

## CHAPTER ~~IV~~<sup>II</sup>

### OF FUNDS.

SECTION 1. The several Interest and Sinking Funds in the Treasury now authorized by law, shall continue therein so long as there shall be occasion therefor, and the moneys therein, or which may belong thereto, shall not be used or appropriated for any purpose other than that for which the same were raised.

SEC. 2. The Common School Fund shall consist of all moneys received from the State School Fund; of all moneys arising from taxes which shall be levied annually by the Common Council for Common School purposes; of all moneys arising from the sale, rent, or exchange of any Common School property; and of such other moneys as may from any source whatever be paid into the Common School Fund.

SEC. 3. The Common School Fund shall be applied to and used for the payment of all sums necessary for the purchase, rent, and improvement of school sites; for the erec-

tion, alteration, repairs, rent, and furnishing of school buildings; for insurance of school property, and for the discharge of all legal incumbrances on school property; for the salaries and wages of the Superintendent, teachers and employees connected with the Common Schools, and other persons who may be lawfully employed in the School Department; for supplying the Common Schools with lights, fuel, water, apparatus, and necessary school appliances, together with books for school children; and for such other supplies for the School Department as are indispensable for the maintenance and proper conduct of the Common Schools of said city and county; *provided*, that the aggregate amount paid out of the Common School Fund in any fiscal year, shall not exceed the amount allowed therefor in this Charter.

If at the close of any fiscal year, any surplus moneys remain in the Common School Fund, such surplus shall be carried forward to the Common School Fund of the ensuing fiscal year.

SEC. 4. The Police Fund shall consist of all moneys arising from taxes which shall be annually levied and apportioned to the said Police Fund, by the Common Council, and of such other moneys as may from any source whatever, come into said fund.

SEC. 5. The Police Fund shall be applied to and used for the payment of the fixed salaries of the Police Commissioners; of the Judge and the Clerk of the Police Court; of the Chief of Police, and of the captains and officers of the regular police force of said city and county, and all sums necessary for providing police stations and appliances.

SEC. 6. The Street Light Fund shall consist of all moneys arising from taxes which shall be annually levied and apportioned to the Street Light Fund by the Common Council.

SEC. 7. Out of the said Street Light Fund shall be paid all sums authorized by law to be paid for lighting the streets, and the public buildings, offices and institutions of said city and county.

SEC. 8. The Street Department Fund shall consist of all moneys arising from taxes which shall be annually levied and apportioned to the Street Department Fund by the Common Council, and all other moneys which may from any source come into said Fund.

SEC. 9. Out of the Street Department Fund shall be paid all sums authorized by law or ordinance to be paid for repairing and improving all streets and lanes and the crossings thereof, which shall have been accepted so as to have become a charge upon said city and county; for cleaning streets, lanes, crossings and sewers; for all street work in front of or assessable upon property belonging to said city

and county; for all street work on the water front not by law assessable upon private property nor otherwise provided for; for all urgent repairs upon the public streets which are necessary for the public safety; for all work authorized by the Common Council upon the recommendation of the Board of Public Works or expended by said Board as immediately essential for the safety of life, limb, or property, or necessary for public health, or which cannot be by law assessed upon private property; and for all other expenditures on the sewers, streets and highways deemed indispensable by the Common Council, or authorized by any provision of this Charter.

SEC. 10. The Fire Department Fund shall consist of all moneys arising from taxes which shall be annually levied and apportioned to the Fire Department Fund by the Common Council, and such other moneys as may from any other source whatever, come into said Fund.

SEC. 11. Out of the Fire Department Fund shall be paid the salaries and wages of all officers, members and employees of the Fire Department, the salaries and wages of the officers, members and employees of the Fire Alarm and Police Telegraph, and the salary of the Clerk of the Board of Fire Commissioners.

Out of said Fire Department Fund shall also be paid all sums authorized by law or ordinance to be paid for sites for engine houses, for the construction and equipment of engine houses, for the construction and repair of cisterns, for the erection of hydrants, for the purchase and repair of fire engines, hose carts, hook and ladder carriages, and for all other apparatus and appliances; also for all necessary horses, harness, horse feed and stable supplies; also for all necessary material, supplies and labor for the maintenance and operation of the Corporation Yard and Workshop; also for all material and supplies necessary for the maintenance, extension and repair of the various Telegraph and Telephone lines belonging to said city and county; also for offices and the necessary furniture and supplies for the Board of Fire Commissioners.

SEC. 12. The Hospital and Almshouse Fund shall consist of all moneys arising from taxes which shall be annually levied and apportioned to the Hospital and Almshouse Fund by the Common Council; of all moneys received from the sale of any article appertaining to the City and County Hospital; and of all moneys received from the sale of any article appertaining to the Almshouse; and of such other moneys as may from any source whatever come into said fund.

SEC. 13. Out of the Hospital and Almshouse Fund shall be paid the salaries of all physicians, surgeons, apothecaries, and employees of the City and County Hospital;

and all sums authorized by law or by ordinance to be paid for material, supplies, drugs, medicines, surgical instruments, and such other stores and appliances as are required for the maintenance of the City and County Hospital and for the treatment and care of the patients therein.

Also the salaries and wages of the officers, and employees of the Almshouse, and all sums authorized by law or ordinance to be paid for material, supplies and other articles required for the maintenance of the Almshouse and the care and support of the inmates thereof.

Also the salaries and wages of the officers and employees of the Smallpox Hospital, and all sums authorized by law or ordinance to be paid for the maintenance and proper conduct of said Smallpox Hospital.

**SEC. 14.** The Park Improvement Fund shall consist of all moneys arising from taxes which shall be annually levied and apportioned to said Park Improvement Fund by the Common Council; of all moneys accruing from rents of grounds, or permits in the parks, or from public property under the control of the Park Commissioners, or arising from the sale of articles appertaining to the said parks; and of all moneys coming into said Fund by donation, bequest or otherwise.

**SEC. 15.** Out of the Park Improvement Fund shall be paid all sums authorized by law to be paid for such material, supplies, tools, machinery, appliances, labor and service, as well as for seeds, plants, vines, shrubs and trees, indigenous or exotic, as the Park Commissioners may deem proper to procure, for preserving, improving and beautifying Golden Gate Park and the other public property under the control of said Park Commissioners. If at the close of any fiscal year any surplus moneys remain in the Park Improvement Fund, such surplus shall be carried forward to the Park Improvement Fund of the ensuing fiscal year.

**SEC. 16.** The Library Fund shall consist of all moneys arising from taxes which shall be annually levied and apportioned to the said Fund by the Common Council; and of all moneys accruing to said Fund by donation, bequest, or otherwise.

**SEC. 17.** The Library Fund shall be applied to and used for the payment of all sums necessary for the purchase or lease and improvement of real estate; the erection and furnishing of suitable buildings; the salaries and wages of officers and employees of the library; the purchase of books, journals and other periodicals; and for such other supplies and appurtenances as may be required for the maintenance and proper conduct of the Free Public Library and Reading Rooms of said city and county.

If at the close of any fiscal year, any surplus moneys re-

main in the Library Fund, such surplus shall be carried forward to the Library Fund of the ensuing fiscal year.

SEC. 18. The New City Hall Fund shall consist of all moneys arising from taxes which shall be annually levied and appropriated to said Fund by the Common Council; said Fund shall be applied to, and used in payment for, all sums authorized by law or ordinance to be paid for the material, labor and service necessary for the completion of the New City Hall. If at the close of any fiscal year, any surplus moneys remain in said Fund, such surplus shall be carried forward to the New City Hall Fund of the ensuing fiscal year until said City Hall shall be completed; after which time all surplus moneys in said New City Hall Fund shall be transferred to the General Fund, and thereafter said New City Hall Fund shall cease.

SEC. 19. If there be any other Special Fund required by any provision of this Charter, such Fund shall be a Fund in said Treasury, by the name designated herein, and shall consist of the moneys authorized to be appropriated to or paid into the same. Out of the moneys in such Fund, shall be paid only those demands, which, by any provision of this Charter, are properly chargeable thereto.

SEC. 20. The General Fund shall consist of all moneys arising from taxes which shall be annually levied and apportioned to the said General Fund by the Common Council; of all moneys received for licenses; of all moneys received from street railroad companies; of all moneys accruing from fines, penalties and forfeitures, for crimes and offenses committed in said city and county; of the surplus moneys transferred thereto at the close of each fiscal year from other Funds, as provided in this Charter; and of all other moneys coming into the Treasury, not by law reserved for a special purpose, or set apart and appropriated to any other specific use.

SEC. 21. Out of the General Fund shall be paid the salaries, not otherwise provided for, of all officers of the City and County, and of the clerks, deputies and assistants of said officers; also all sums authorized by law to be paid for the maintenance and support of the City and County Jail, the City Prison, the House of Correction, the Industrial School, and the inmates of each and all thereof, and of such other institutions for the preservation of public order as are, or may be established by authority of law; also such sums as are allowed by law to be paid to the Home for the Care of the Inebriate, to the Society for the Prevention of Cruelty to Animals, and to the Society for the Prevention of Cruelty to Children; also all sums authorized by law to be paid for such books, blanks, stationery, printing, publishing and advertising as may be re-

quired by said City and County, or by the officers thereof, in the performance of their official duties, and not otherwise provided for; and all other sums authorized by law or ordinance to be paid out of the treasury of said city and county, and for the payment of which, out of any special fund, no provision has been made.

SEC. 22. At the close of the fiscal year, the Treasurer shall transfer all surplus moneys remaining in all municipal Funds, excepting the several Interest and Sinking Funds, the Common School Fund, the Park Improvement Fund, Police Health and Life Insurance Fund, Fund for the Relief of Disabled Firemen, and the Library Fund, to the General Fund.

SEC. 23. Whenever there shall be to the credit of any Sinking Fund in the Treasury a sum not less than twenty thousand dollars which may be applied to the redemption of any outstanding bonds to which said Fund is applicable, which are not redeemable before their maturity, it shall be the duty of the Mayor, Auditor and Treasurer to advertise for thirty days in three newspapers of general circulation published in said city and county, one of which shall be the official newspaper, inviting proposals for the surrender and redemption of said bonds; and after such advertisement, to award the money in said Sinking Fund, or such portion thereof as may be required therefor, to the person offering to surrender said bonds for the lowest amount, and upon such award the Treasurer is authorized, upon the surrender of the bonds, to pay the amount thereof to the person to whom the same was awarded; *provided*, that no bid for the surrender of any of said bonds shall be accepted which shall require a greater sum of money for their redemption, than the present worth of the principal and interest of said bonds calculated with interest at the rate of three per cent per annum.

### CHAPTER III.

#### OF AUDITING CLAIMS.

SECTION 1. Every demand upon the Treasury, except the salary of the Auditor, and including the salary of the Treasurer, must, before it can be paid, be presented to the Auditor to be audited, who shall satisfy himself whether the money is legally due and remains unpaid, and whether the payment thereof from the Treasury of said city and county is authorized by law, and out of what Fund payable. If he audit it, he shall indorse upon it the word "allowed," with the name of the Fund out of which it is payable, with the date of such allowance, and sign his name thereto; but no demand can be audited,

unless it specify each several item, date, and value composing it, and refer to the law, Charter or ordinance by title, date, and section authorizing the same.

SEC. 2. The demand of the Auditor for his monthly salary shall be audited and allowed by the Mayor.

SEC. 3. All other monthly demands on account of salaries, compensations, or allowances, fixed by law and made payable out of the Treasury, may, unless otherwise provided in this Charter, be audited, without any previous approval.

#### CHAPTER IV.

##### OF THE PAYMENT OF CLAIMS.

SECTION 1. All demands payable out of the Common School Fund must, before they can be audited or paid out of the Treasury, be approved by the Board of Education, as prescribed in this Charter.

SEC. 2. All demands payable out of the Police Fund must, before they can be audited or paid out of the Treasury, be approved by the Board of Police Commissioners, as prescribed in this Charter.

SEC. 3. All demands payable out of the Street Department Fund must, before they can be audited, or paid out of the Treasury, be approved by the Board of Public Works.

SEC. 4. All demands for salaries and wages of officers and employees of the Fire Department, and of the Fire Alarm and Police Telegraph, and for the construction and maintenance of the School Telegraph and Telephone lines, payable out of the Fire Department Fund, must, before they can be audited or paid out of the Treasury, be approved by the Board of Fire Commissioners, as prescribed in this Charter.

SEC. 5. All demands on the Treasury for salaries and wages of officers and employees of the County Hospital, of the Almshouse, and of the Smallpox Hospital, payable out of the Hospital and Almshouse Fund, must, before they can be audited or paid out of the Treasury, be approved by the Board of Health, as prescribed in this Charter.

SEC. 6. All demands payable out of the Park Improvement Fund must, before they can be audited or paid out of the Treasury, be approved by the Board of Park Commissioners, as prescribed in this Charter.

SEC. 7. All demands payable out of the Library Fund must, before they can be audited or paid out of the Treasury, be approved by the Board of Trustees of the Free Public Library and Reading Rooms, as prescribed by this Charter.

SEC. 8. All demands payable out of the New City Hall Fund, must, before they can be audited or paid out of the

Treasury, be approved by the Board of Public Works, as prescribed in this Charter.

SEC. 9. All demands on the Treasury for salaries, wages or compensation of deputies, clerks, or assistants in any office of said city and county, not belonging to any Department herein provided for, must, before they can be audited or paid out of the Treasury, be approved by the Officer at the head of such office.

SEC. 10. All other demands, of whatever nature or kind, on the Treasury, not subject to the approval of any Board, Commission, or Officer, as herein provided, must, before they can be audited or paid out of the Treasury, be approved by the Common Council.

SEC. 11. The Treasurer shall keep the moneys belonging to each Fund separate and distinct, and shall in no case pay demands chargeable against one fund out of moneys belonging to another fund.

## CHAPTER V.

### OF THE LEVYING OF TAXES.

SECTION 1. The Auditor shall annually, and on or before the fifteenth day of September, transmit to the Common Council, an estimate of the amount of taxes which will be required to be levied in the current fiscal year, for the support and maintainance of each Department of the Government, accompanied with the estimates and reports of each Department which shall have been delivered to him; and also estimates in detail of the amount of taxes which will, for any purpose (specifying the same) be required to be levied in addition thereto.

SEC. 2. The Common Council of said city and county shall, annually, on or before the first Monday of October, or at such time as may be prescribed by law for the levying of State taxes, levy the taxes required by law to be levied for State and for city and county purposes, said taxes to be levied upon all property taxable in said city and county. The taxes so levied shall be such as the said Common Council may deem sufficient to provide for the payment of all demands authorized by law to be paid out of the treasury. Said taxation, exclusive of the State tax, and the special taxes required by law to be levied and collected for the payment of the interest and principal of the bonded indebtedness of said city and county, and for the completion of the New City Hall, shall not in the aggregate exceed the rate of one dollar upon each one hundred dollars' valuation of the property assessed. The taxes so levied shall be uniform throughout the said city and county, and shall become due and payable at the same

time; *provided*, that the said Common Council shall also levy such special taxes and assessments as are authorized and required by law to be levied on the property of any district or subdivision of said city and county for the payment of the interest and principal of any lawfully issued outstanding Bonds, issued on account of any improvement made within the limits of said district or subdivision of said city and county.

SEC. 3. The Common Council, in making the said levy of said taxes, shall designate the tax levied for each Fund upon each one hundred dollars valuation of property assessed; and shall, after setting apart the taxes required by law to be levied for State purposes and for the payment of the interest and principal of the bonded indebtedness of said city and county, apportion the remainder of said taxes, so levied and to be collected, to a General Fund, and to such several specific Funds, as are or may be provided for by law, or by the provisions of this Charter, according to the estimate of the said Common Council of the necessities of the said specific Funds, except that the rate for the Common School Fund shall not exceed the limitations contained in the provisions of this Charter concerning the Common School Department.

SEC. 4. The Common Council shall authorize the disbursement of said money for the purposes in this Charter mentioned, but no money belonging to one Fund shall be used in paying any demand upon any other Fund; and no money shall be transferred from any Fund or Funds to any other Fund, except that, at the close of each fiscal year, the Common Council shall direct the Treasurer to transfer to the General Fund all surplus moneys of all Funds, after providing for all outstanding demands upon said Funds; *provided*, that the surplus moneys remaining in the several Interest and Sinking Funds, in the Common School Fund, in the Park Improvement Fund, in the Library Fund, Police Life and Health Insurance Fund, and in the New City Hall Fund, shall not be so transferred, but shall be carried forward to their respective Funds for the ensuing fiscal year.

## CHAPTER VI.

### OF COUNTING PUBLIC MONEY.

SECTION I. The Mayor, in conjunction with the Auditor and the President of the Board of Alermen, shall every month examine the books of the Treasurer and other officers of said city and county having the collection and custody of

Public Funds, and shall be permitted, and it shall be their duty to see and count all the moneys remaining in the hands of such Treasurer or other officer, and verify the coin by weighing or counting the same.

The Finance Committee of each Board of the Common Council shall also twice a year, viz: on the first Monday in July and in January, and at such other times as they may elect, make the same examination of books, count said money and report the result to their respective Boards.

The failure to perform this duty for one month unless prevented by sickness or other unavoidable cause, shall work a forfeiture of office of any officer required to do the same.

**SBC. 2.** If such Treasurer or other officer is found to be a defaulter, the Mayor and Auditor shall forthwith take possession of all Funds, books and papers belonging to such office, and a person shall be appointed to fill the same until the said defaulting officer can be proceeded against according to law, which shall be done without delay. The person so appointed shall give bond and take the oath of office in the same manner as was required of the officer whose place he is appointed to fill.

If the Treasurer or other officer charged as a defaulter be acquitted thereof, he shall resume his duties.

**SEC. 3.** The Mayor, each Alderman and each Assistant Alderman, Auditor, and President of the Board of Education shall have power to administer oaths and affirmations concerning any demand on the Treasury relating to their official duties. Every officer who shall approve, allow or pay any demand on the Treasury not authorized by law or by this Charter, shall be liable to said city and county, individually and on his official bond, for the amount of the demand so approved, allowed or paid. All books and records of every Office and Department of said city and county, shall be open to the inspection of any citizen at any time during business hours. Copies or extracts from said books, duly certified, shall be given by the officer having the same in his custody, to any citizen demanding the same, and paying or tendering ten cents per folio of one hundred words for such copies or extracts.

**SEC. 4.** Whenever any Officer, Board or Department provided for in this Charter, shall require additional deputies, clerks or employees, application shall be made to the Mayor therefor, and upon such application it shall be the duty of the Mayor to make investigation as to the necessity for such additional assistance, and if he finds the same necessary he shall recommend to the Common Council to au-

thorize the appointment of such additional deputies, clerks or employees; and thereupon said Common Council may, in its discretion, authorize such appointments, and provide for their compensation, subject to the limitations contained in this Charter.

## ARTICLE XIII.

### **Miscellaneous Provisions.**

**SECTION 1.** All officers whose election or appointment is not otherwise provided for, either by law or by this Charter, shall be appointed by the Mayor, by and with the advice and consent of the Board of Aldermen; and wherever it is provided in this Charter that an office shall be filled by appointment, and no other provision is made herein for such appointment, it shall be made by the Mayor in like manner. Every officer so appointed shall hold his office until the expiration of his term of office, and until his successor is appointed and qualified, and in all cases where no other period therefor is prescribed in this Charter or by law, the term of office of any officer whose election or appointment is herein provided for, shall be four years.

**SEC. 2.** An officer shall be deemed to have "qualified" when he shall have taken the oath of office and filed the same, together with his official bond, if a bond be required, in the office of the Auditor; *provided*, that the bond and oath of office of the Auditor shall be filed with the County Clerk.

**SEC. 3.** All Officers of said city and county shall, before they can enter upon the discharge of their official duties, give and execute to the said city and county such bonds as may be required by law, or by any provision of this Charter, or by ordinance passed by the Common Council. When the amount of any bond is not fixed by law or by this Charter, it may be fixed by an ordinance of the Common Council. The bonds of such officers excepting those of the Mayor and Auditor, must be approved by the Mayor, Auditor, and President of the Board of Aldermen. The official bond of the Mayor shall be approved by the Auditor, the President of the Board of Aldermen and the President of the Board of Assistant Aldermen. The official bond of the Auditor shall be approved by the Mayor, the President of the Board of Aldermen, and the President of the Board of Assistant Aldermen. The approval of every official bond must be indorsed thereon, and signed by the officer approving the same. After the approval of said bonds, they shall be recorded in the office of the County Recorder, in a book kept for that purpose, entitled "Record of Official Bonds." The

official bond of the Auditor shall be filed and kept in the office of the County Clerk. The bonds of all other officers shall be filed and kept in the office of the Auditor. Whenever a bond is required by law or by any of the provisions of this Charter, it shall be recorded at the expense of the party giving the bond, in the office of the County Recorder in the aforesaid "Record of Official Bonds," and no bond shall be of any validity until after such record.

SEC. 4. The Officers of said city and county named in this section shall respectively execute official bonds for the following amounts, viz:

The Mayor for the amount of twenty-five thousand dollars.

The Auditor for the amount of one hundred thousand dollars.

The Treasurer for the amount of one hundred and fifty thousand dollars.

The Tax Collector for the amount of one hundred thousand dollars.

The Collector of Licenses for the amount of twenty-five thousand dollars.

The Assessor for the amount of fifty thousand dollars.

The County Clerk for the amount of fifty thousand dollars.

The County Recorder for the amount of twenty thousand dollars.

The Sheriff for the amount of seventy-five thousand dollars.

The Coroner for the amount of ten thousand dollars.

The City and County Attorney for the amount of twenty-five thousand dollars.

The District Attorney for the amount of twenty-five thousand dollars.

The Public Administrator for the amount of thirty thousand dollars.

The Superintendent of Public Schools for the amount of ten thousand dollars.

Each Commissioner of the Board of Public Works for the amount of ten thousand dollars.

Each Alderman for the amount of five thousand dollars.

Each Assistant Alderman for the amount of five thousand dollars.

Each School Director for the amount of five thousand dollars.

Each Justice of the Peace for the amount of five thousand dollars.

Each Fire Commissioner for the amount of five thousand dollars.

Each Park Commissioner for the amount of five thousand dollars.

Each Election Commissioner for the amount of five thousand dollars.

Each Police Commissioner for the amount of five thousand dollars.

SEC. 5. Each official bond shall be also executed by two or more sureties, who shall each justify in the amount required for said bond; *provided*, that where the amount of the bond is more than five thousand dollars, the sureties may become severally liable for portions of not less than five thousand dollars thereof, *and provided further*, that when there are more than two sureties thereto, the sureties may justify in an amount which in the aggregate shall equal double the amount of said bond.

Each surety upon an official bond shall make an affidavit which shall be indorsed upon said bond that he is a resident and freeholder in the City and County of San Francisco, and worth in real property, including mortgages on real property, situated in said city and county, the amount of his undertaking over and above all sums for which he is already liable or in any manner bound, whether as principal, indorser or surety, and whether such prior obligation or liability be conditional or absolute, liquidated or unliquidated, certain or contingent, due or to become due; and that he was assessed in his own name upon the last preceding assessment roll of said city and county in an amount greater than his said undertaking, and that the taxes on said property are not delinquent. All persons offered as sureties on official bonds shall be personally examined on oath as to their qualifications, by the Officers whose duty it is to approve the bond. No banker residing or doing business in said city and county, nor any such banker's partner, clerk, employee, agent, attorney, father, son or brother shall be received as surety for the Mayor, Treasurer, Sheriff, Auditor, Tax Collector, Assessor, nor for any officer having the collection, custody or disbursement of money.

SEC. 6. In all cases when under any of the provisions of this Charter or of any ordinance of the Common Council passed pursuant thereto, an official bond is or shall be required of any officer, the Board of Aldermen may, by resolution, require an additional bond, whenever by reason of the insolvency or pecuniary inability of either of the sureties upon said bond, or from any other cause the bond originally given by such officer shall, in the opinion of said Board, become insufficient; and such additional bond shall be so required by said Board of Aldermen whenever any of the sureties to said original bond shall have died or ceased to be a resident of the City and County of San Francisco.

SEC. 7. Every officer shall be liable upon his official bond for the acts and omissions of the deputies, assistants,

clerks and employees appointed by him, or of any or either of them.

SEC. 8. All officers, deputies, clerks and employees shall, in addition to the duties in this Charter defined, perform such other and further duties as may be required by law or ordinance, and the condition of every official bond must be that the principal will faithfully perform all official duties then and that may be thereafter required of him by any law or ordinance.

SEC. 9. The salaries and compensation of all officers, including policemen and employees of all classes, and all teachers and other persons in common schools employed at fixed wages, shall be payable monthly; and any demand whatsoever upon the Treasury shall not be paid, but shall forever be barred by limitation of time, unless the same be presented for payment within three months after such demand becomes due and payable; or if it be a demand which has to be passed upon and approved by the Common Council or any Board, then, within three months after such approval; *provided*, that every claim or demand which requires the approval or allowance of the Common Council, or any Board before its payment, shall be presented for such allowance at the first regular session of the Common Council or Board that shall be held within one month after the same accrued, unless the Common Council shall within six months after the demand accrued, on a careful examination of the facts, pass a resolution and certify that the said demand is in all respects just and legal, and that the presentation of it, as above required, was not in the power either of the original party interested, or his agent, or the present holder; in which case it shall be barred in the same manner, unless presented within twenty days thereafter.

SEC. 10. A vacaney shall be deemed to exist in any office, whenever the incumbent thereof dies, resigns, or is adjudged to be insane, or otherwise incompetent to transact business, or is convicted of any felony, or is lawfully removed from office, or whenever he shall have been absent from the State, without permission from the Common Council, for a period of more than thirty days. The Common Council shall not grant to any officer permission to be absent from the State for a period of more than sixty days. Whenever there is a vacancy in any office, the same shall be filled by appointment, and the person appointed to fill the same, shall hold the office only for the remainder of the unexpired term.

SEC. 11. All public offices of the city and county shall be kept open for the transaction of business every day in the year, except legal holidays, between the hours of eight o'clock in the forenoon and five o'clock in the afternoon;

*provided, that from the first day of October until the thirty-first day of December in each year, the office of the Tax Collector shall be kept open, in addition thereto, until nine o'clock in the evening.*

SEC. 12. All taxes for municipal purposes shall be due and payable at the same time, and shall be collected at the same time and in the same manner as is or may be provided by law for the payment and collection of State and county taxes.

SEC. 13. No office shall be created, or person employed in any capacity in any department of said City and County of San Francisco, unless authorized by this Charter; nor shall any officer, clerk or employee of said city and county receive from said city and county any compensation for any service of any kind which compensation is not herein specially provided for.

SEC. 14. No person shall hold any office or be clerk or deputy in any office or Department provided for in this Charter who, at the time of his election or appointment, is not twenty-one years of age, a citizen of this State, and a resident and qualified voter of said city and county.

SEC. 15. The newspaper to which shall be awarded the contracts for doing the official printing of said city and county, as in this Charter provided, shall, while doing such printing, be deemed and known as the official newspaper of said city and county.

SEC. 16. The several officers and the heads of the various Departments of the government of the city and county, shall report to the Common Council on or before the first day of August of each year, the condition of their respective Departments during the last preceding fiscal year, embracing all their operations and expenditures; Immediately thereafter the Common Council shall prepare and publish an abstract from these several reports, and other sources, of the operations expenditures and condition of all departments of the government of said city and county.

SEC. 17. Whenever a nuisance to public health is caused upon private property by any work or improvement done by or under the authority of the city and county, the same shall be abated by and at the cost of the city and county.

SEC. 18. The Common Council shall, in lieu of the powers conferred on it, by subdivisions 59 and 60, of Section 1, Chapter II, Article II of this Charter, annually appropriate and order paid out of the Treasury, to the Society for the Prevention of Cruelty to Animals, and also to the Society for the Prevention of Cruelty to Children, the sum of two hundred and fifty dollars, to each of them, to aid and assist

them in enforcing the provisions of the laws under which they were respectively organized. Such payment to be in lieu of the fines and penalties, which by such laws, each of said Societies is entitled to have and receive.

SEC. 19. The Common Council may, by ordinance, authorize the issuance and sale of bonds of the city and county, in an amount sufficient to retire school bonds of said city and county, matured or which are about to mature. Such bonds shall bear a rate of interest not to exceed four per cent. per annum, and be payable not more than ten years from their date.

SEC. 20. The Common Council shall between the first and thirty-first days of May in each year, by ordinance, fix and establish or reduce the salaries and wages of all the deputies, clerks, assistants, and other employees of all the Officers, Boards and Departments in the city and county, except the School Department, such salary or wages so to be fixed and established to commence on the first day of July thereafter; *provided*, that the said Common Council shall not in any event increase the salary of any such deputy, clerk, assistant or employee beyond the amount fixed therefor in this Charter; *and provided further*, that the salaries and wages of the deputies, clerks, assistants and employees in the Fire Department and in the Health Department and in the Police Department shall be fixed and established only upon the recommendation of the respective Boards in charge of said Departments.

SEC. 21. The Common Council may by ordinance propose amendments and alternative amendments to this Charter, and cause the same to be published in two daily papers of general circulation in said city and county at least twenty days, and in like manner cause the same to be submitted to the qualified voters of said city and county at a general or special election to be held at least sixty days after the expiration of such publication. If any such proposed amendment shall at such election receive the affirmative vote of at least three-fifths of the qualified electors voting thereat, the same shall be submitted to the Legislature at its next session thereafter for its approval or rejection as a whole, without power of alteration or amendment, and if approved by a majority vote of the members elected to each House, it shall become a part of this Charter; *provided*, that no such amendment shall be proposed at intervals of less than two years.

SEC. 22. All ordinances, orders and resolutions of the city and county of San Francisco in force at the time when this charter shall take effect, and not inconsistent therewith, shall continue in force until altered or repealed; provided that all franchises and privileges heretofore granted by the

city and county of San Francisco which are not in actual use or enjoyment when this charter takes effect, or which the grantees thereof have not in good faith commenced to exercise, are hereby declared forfeited and of no validity, unless said grantees or their assigns shall within one year thereafter in good faith commence the exercise and enjoyment of said privilege or franchise.

SEC. 23. All ordinances or resolutions for the improvement of any street, for which improvement no contract shall have been entered into at the time this Charter goes into effect, shall be and are hereby repealed.

SEC. 24. All Acts and parts of Acts in conflict with any of the provisions of this Charter are hereby declared to be inapplicable to the City and County of San Francisco.

## ARTICLE XIV.

### Schedule.

SECTION 1. This Charter shall be published for twenty days in the "San Francisco Chronicle" and in the "Daily Examiner," two daily papers of general circulation in the City and County of San Francisco, and after such publication, viz: on Wednesday, the 8th day of September, A. D., 1880, it shall be submitted to the qualified electors of said City and County of San Francisco at a special election, which shall be held on that day, for the purpose of voting upon the adoption of the same; and if a majority of the qualified electors of said city and county, voting at said election shall ratify the same, it shall be submitted to the Legislature for its approval or rejection. If the Legislature shall approve the same, it shall take effect and be in force on and after the first day of July A. D. 1881, and shall thereupon be and become the Charter and organic law of the City and County of San Francisco, and shall supersede the existing Charter of said city and county, and all amendments thereof, and all special laws inconsistent with this Charter, *provided*, that, for the purpose of electing a Mayor, Aldermen, and Assistant Aldermen, the said Charter shall take effect immediately upon its approval by the Legislature.

The election to be held on the said 8th day of September, A. D. 1880, shall be managed, conducted and controlled by the Board of Election Commissioners in and for said city and county, and shall be in all respects conducted in accordance with the existing laws in relation to elections in the City and County of San Francisco.

The form of the ballots at said election shall be, "For the New Charter," "Against the New Charter."

SEC. 2. If the Legislature shall approve this Charter, an

election shall be held on the third Wednesday of April, A. D. 1881, by the qualified electors of the said city and county, under the laws and forms now prescribed for holding elections in said city and county, at which time there shall be chosen a Mayor, twelve Aldermen, and twelve Assistant Aldermen. The Mayor and twelve Aldermen shall be chosen by the voters at large of said city and county, upon a general ticket, and one of said Assistant Aldermen shall be chosen from each of the present wards of said city and county.

The term of office of the Mayor so chosen shall expire on the first Monday after the first day of January, A. D. 1885, and the term of office of six of the Aldermen so chosen, to be determined as provided in Section 3, Chapter I, Article II of this Charter, shall expire on the same day, and the term of office of the other six Aldermen shall expire on the first Monday after the first day of January, A. D. 1883. The term of office of the Assistant Aldermen shall expire on the first Monday after the first day of January, A. D. 1883.

SEC. 3. At the general election, to be held in said city and county in the year one thousand eight hundred and eighty-two, there shall be chosen by the qualified electors thereof, an Auditor, Treasurer, Tax Collector, Assessor, Recorder, District Attorney, County Clerk, Sheriff, Coroner, Police Judge, six Aldermen, twelve Assistant Aldermen, and five Justices of the Peace, whose term of office shall commence on the first Monday after the first day of January, A. D. 1883, and with the exception of the Justices of the Peace and Assistant Aldermen, shall continue for four years. The term of the Justices of the Peace shall continue for two years.

The term of office of all officers to be thereafter elected shall commence on the first Monday after the first day of January succeeding their election.

SEC. 4. All officers of the City and County of San Francisco, in office when this Charter takes effect, shall continue to hold and exercise their respective offices, under and in accordance with the terms and provisions of this Charter, until the election or appointment and qualification of the successors to said officers provided for in this Charter; and upon such election or appointment and qualification, the said incumbents shall turn over and deliver to their respective successors, all books, records, documents, papers and property of every nature in their custody, charge or control, belonging to said city and county or to their respective offices; and the respective officers to whom the same is delivered, shall give therefor two duplicate receipts, one of which shall be immediately filed in the office of the Auditor.

SEC. 5. The Common Council is authorized to appropriate and order paid out of the General Fund the expenses incurred, and that may be unpaid at the time this Charter takes effect, in the preparation of this Charter by the Board of Freeholders, including the expense of publishing the same for twenty days in said two daily newspapers, upon the certificate and allowance thereof by the President of said Board, *provided*, that no allowance for compensation or services shall be made to any member of said Board of Freeholders.

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**Be it Known,** that the BOARD OF FREEHOLDERS of the City and County of SAN FRANCISCO, in the State of CALIFORNIA, have prepared and do propose the foregoing to be the CHARTER for said City and County, in pursuance of the provisions of Section 8, Article XI of the CONSTITUTION of the State of CALIFORNIA.

IN WITNESS WHEREOF, WE, the MEMBERS of said BOARD, have hereunto set our hands, this TWENTY-EIGHTH DAY OF JUNE, in the year One Thousand Eight Hundred and Eighty.

J. P. HOGE, PRESIDENT;

S. M. WILSON,

M. M. ESTEE,

WASHINGTON BARTLETT,

A. S. HALLIDIE,

CHARLES KOHLER,

T. I. BERGIN,

JAMES T. BOYD,

THOS. B. BISHOP,

J. M. McDONALD,

RALPH C. HARRISON,

ISAAC WORMSER,

J. M. McNULTY, M. D.,

A. COMTE, JR.

Attest: WM. T. ATWOOD, Secretary.

# CONSTITUTION OF THE STATE OF CALIFORNIA.

Adopted in Convention, at Sacramento, March 3d, A. D. 1879; to be submitted to a vote of the People on Wednesday, May 7th, 1879.

## PREAMBLE AND DECLARATION OF RIGHTS.

### PREAMBLE.

We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

## ARTICLE I.

### DECLARATION OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

SEC. 3. The State of California is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this State; and no person shall be rendered incompetent to be a witness or juror on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require its suspension.

SEC. 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned.

SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three-fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases, not amounting to felony, by the consent of both parties,

expressed in open Court, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions, and cases of misdemeanor, the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open Court.

SEC. 8. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a Magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law. A grand jury shall be drawn and summoned at least once a year in each county.

SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. Indictments found, or information laid, for publications in newspapers shall be tried in the county where such newspapers have their publication office, or in the county where the party alleged to be libeled resided at the time of the alleged publication, unless the place of trial shall be changed for good cause.

SEC. 10. The people shall have the right to freely assemble together to consult for the common good, to instruct their Representatives, and to petition the Legislature for redress of grievances.

SEC. 11. All laws of a general nature shall have a uniform operation.

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace, and no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

SEC. 13. In criminal prosecutions, in any Court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the Court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the same offense; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law. The Legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide, when there is reason to believe that the witness, from inability or other cause, will not attend at the trial.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into Court for, the owner, and no right of way shall be appropriated to the use of any corporation other than municipal until full compensation therefor be first made in money or ascertained and paid into Court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a Court of record, as shall be prescribed by law.

SEC. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud, nor in civil actions for torts, except in cases of willful injury to person or property; and no person shall be imprisoned for a militia fine in time of peace.

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.

SEC. 17. Foreigners of the white race or of African descent, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this State, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of property as native-born citizens.

SEC. 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

SEC. 19. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue, but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open Court.

SEC. 21. No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the Legislature; nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.

SEC. 22. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SEC. 23. This enumeration of rights shall not be construed to impair or deny others retained by the people.

SEC. 24. No property qualification shall ever be required for any person to vote or hold office.

## ARTICLE II.

### RIGHT OF SUFFRAGE.

SECTION 1. Every native male citizen of the United States, every male person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; *provided*, no native of China, no idiot, insane person, or person convicted of any infamous crime, and no person hereafter convicted of the embezzlement or misappropriation of public money, shall ever exercise the privileges of an elector in this State.

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student at any seminary of learning; nor while kept at any alms-house or other asylum, at public expense; nor while confined in any public prison.

SEC. 5. All elections by the people shall be by ballot.

## ARTICLE III.

### DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government of the State of California shall be divided into three separate departments—the legislative, executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except as in this Constitution expressly directed or permitted.

## ARTICLE IV.

### LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power of this State shall be vested in a Senate and Assembly, which shall be designated The Legislature of the State of California, and the enacting clause of every law shall be as follows: "The People of the State of California, represented in Senate and Assembly, do enact as follows."

SEC. 2. The sessions of the Legislature shall commence at twelve o'clock M. on the first Monday after the first day of January next succeeding the election of its members, and, after the election held in the year eighteen hundred and eighty, shall be biennial, unless the Governor shall, in the interim, convene the Legislature by proclamation. No pay shall be allowed to members for a longer time than sixty days, except for the first session after the adoption of this Constitution, for which they may be allowed pay for one hundred days. And no bill shall be introduced, in either House, after the expiration of ninety days from the commencement of the first session, nor after fifty days after the commencement of each succeeding session, without the consent of two-thirds of the members thereof.

SEC. 3. Members of the Assembly shall be elected in the year eighteen hundred and seventy-nine, at the time and in the manner now provided by law. The second election of members of the Assembly, after the adoption of this Constitution, shall be on the first Tuesday after the first Monday in November, eighteen hundred and eighty. Thereafter, members of the Assembly shall be chosen biennially, and their term of office shall be two years; and each election shall be on the first Tuesday after the first Monday in November, unless otherwise ordered by the Legislature.

SEC. 4. Senators shall be chosen for the term of four years, at the same time and places as members of the Assembly, and no person shall be a member of the Senate or Assembly who has not been a citizen and inhabitant of the State three years, and of the district for which he shall be chosen one year, next before his election.

SEC. 5. The Senate shall consist of forty members, and the Assembly of eighty members, to be elected by districts, numbered as hereafter provided. The seats of the twenty Senators elected in the year eighteen hundred and eighty-two from the odd numbered districts shall be vacated at the expiration of the second year, so that one-half of the Senators shall be elected every two years; *provided*, that all the Senators elected at the first election under this Constitution shall hold office for the term of three years.

SEC. 6. For the purpose of choosing members of the Legislature, the State shall be divided into forty senatorial and eighty assembly districts, as nearly equal in population as may be, and composed of contiguous territory, to be called senatorial and assembly districts. Each senatorial district shall choose one Senator, and each assembly district shall choose one member of Assembly. The senatorial districts shall be numbered from one to forty, inclusive, in numerical order, and the assembly districts shall be numbered from one to eighty, in the same order, commencing at the northern boundary of the State, and ending at the southern boundary thereof. In the formation of such districts, no county, or city and county, shall be divided, unless it contain sufficient population within itself to form two or more districts; nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any district. The census taken under the direction of the Congress of the United States in the year one thousand eight hundred and eighty, and every ten years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the Legislature shall, at its first session after each census, adjust such districts and apportion the representation so as to preserve them as near equal population as may be. But in making such adjustment no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district. Until such districting as herein provided shall be made, Senators and Assemblymen shall be elected by the districts according to the apportionment now provided for by law.

SEC. 7. Each House shall choose its officers, and judge of the qualifications, elections, and returns of its members.

SEC. 8. A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner, and under such penalties, as each House may provide.

SEC. 9. Each House shall determine the rule of its proceeding, and may, with the concurrence of two-thirds of all the members elected, expel a member.

SEC. 10. Each House shall keep a Journal of its proceedings, and publish the same, and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered on the Journal.

SEC. 11. Members of the Legislature shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest, and shall not be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 12. When vacancies occur in either House, the Governor, or person exercising the functions of the Governor, shall issue writs of election to fill such vacancies.

SEC. 13. The doors of each House shall be open, except on such occasions as, in the opinion of the House, may require secrecy.

SEC. 14. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which they may be sitting. Nor shall the members of either House draw pay for any recess or adjournment for a longer time than three days.

SEC. 15. No law shall be passed except by bill. Nor shall any bill be put upon its final passage until the same, with the amendments thereto, shall have been printed for the use of the members; nor shall any bill become a law unless the same be read on three several days in each House, unless, in case of urgency, two-thirds of the House where such bill may be pending shall, by a vote of yeas and nays, dispense with this provision. Any bill may originate in either House, but may be amended or rejected by the other; and on the final passage of all bills they shall be read at length, and the vote shall be by yeas and nays upon each bill separately, and shall be entered on the Journal; and no bill shall become a law without the concurrence of a majority of the members elected to each House.

SEC. 16. Every bill which may have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the House in which it originated, which shall enter such objections upon the Journal and proceed to reconsider it. If, after such reconsideration, it again pass both Houses, by yeas and nays, two-thirds of the members elected to each House voting therefor, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him (Sundays excepted), the same shall become a law in like manner as if he had signed it, unless the Legislature, by adjournment, prevents such return, in which case it shall not become a law, unless the Governor, within ten days after such adjournment (Sundays excepted), shall sign and deposit the same in the office of the Secretary of State, in which case it shall become a law in like manner as if it had been signed by him before adjournment. If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more items, while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the reasons therefor, and the appropriation so objected to shall not take effect unless passed over the Governor's veto, as hereinbefore provided. If the Legislature be in session, the Governor shall transmit to the House in which the bill originated a copy of such statement, and the items so objected to shall be separately reconsidered in the same manner as bills which have been disapproved by the Governor.

SEC. 17. The Assembly shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members elected.

SEC. 18. The Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, Surveyor-General, Chief Justice and Associate Justices of the Supreme Court, and Judges of the Superior Courts, shall be liable to impeachment for any mis-

emeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanor in office in such manner as the Legislature may provide.

SEC. 19. No Senator or member of Assembly shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which have been increased, during such term, except such offices as may be filled by election by the people.

SEC. 20. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this State; *provided*, that officers in the militia, who receive no annual salary, local officers, or Postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed to hold lucrative offices.

SEC. 21. No person convicted of the embezzlement or defalcation of the public funds of the United States, or of any State, or of any county or municipality therein, shall ever be eligible to any office of honor, trust, or profit under this State, and the Legislature shall provide, by law, for the punishment of embezzlement or defalcation as a felony.

SEC. 22. No money shall be drawn from the treasury but in consequence of appropriations made by law, and upon warrants duly drawn thereon by the Controller; and no money shall ever be appropriated or drawn from the State treasury for the use or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State; *provided*, that notwithstanding anything contained in this or any other section of this Constitution, the Legislature shall have the power to grant aid to institutions conducted for the support and maintenance of minor orphans, or half orphans, or abandoned children, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions; *provided further*, that the State shall have, at any time, the right to inquire into the management of such institutions; *provided further*, that whenever any county, city and county, or city, or town shall provide for the support of minor orphans, or half orphans, or abandoned children, or aged persons in indigent circumstances, such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church or other control. An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature.

SEC. 23. The members of the Legislature shall receive for their services a per diem and mileage, to be fixed by law, and paid out of the public treasury; such per diem shall not exceed eight dollars, and such mileage shall not exceed ten cents per mile, and for contingent expenses not exceeding twenty-five dollars for each session. An increase in compensation or mileage shall take effect during the term for which the members of either House shall have been elected, and the pay of no attaché shall be increased after he is elected or appointed.

SEC. 24. Every Act shall embrace but one subject, which subject shall be expressed in its title. But if any subject shall be embraced in an Act which shall not be expressed in its title, such Act shall be void only as to so much thereof as shall not be expressed in its title. No law shall be revised or amended by reference to its title; but in such case the Act revised or section amended shall be reenacted and published at length as revised or amended; and all laws of the State of California, and all official writings, and the executive, legislative and judicial proceedings shall be conducted, preserved, and published in no other than the English language.

SEC. 25. The Legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

*First*—Regulating the jurisdiction and duties of Justices of the Peace, Police Judges, and of Constables.

*Second*—For the punishment of crimes and misdemeanors.

*Third*—Regulating the practice of Courts of justice.

*Fourth*—Providing for changing the venue in civil or criminal actions.

*Fifth*—Granting divorces.

*Sixth*—Changing the names of persons or places.

*Seventh*—Authorizing the laying out, opening, altering, maintaining, or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, graveyards, or public grounds not owned by the State.

*Eighth*—Summoning and impaneling grand and petit juries, and providing for their compensation.

*Ninth*—Regulating county and township business, or the election of county and township officers.

*Tenth*—For the assessment or collection of taxes.

*Eleventh*—Providing for conducting elections, or designating the places of voting, except on the organization of new counties.

*Twelfth*—Affecting estates of deceased persons, minors, or other persons under legal disabilities.

*Thirteenth*—Extending the time for the collection of taxes.

*Fourteenth*—Giving effect to invalid deeds, wills, or other instruments.

*Fifteenth*—Refunding money paid into the State treasury.

*Sixteenth*—Releasing or extinguishing, in whole or in part, the indebtedness, liability, or obligation of any corporation or person to this State, or to any municipal corporation therein.

*Seventeenth*—Declaring any person of age, or authorizing any minor to sell, lease, or encumber his or her property.

*Eighteenth*—Legalizing, except as against the State, the unauthorized or invalid act of any officer.

*Nineteenth*—Granting to any corporation, association, or individual any special or exclusive right, privilege, or immunity.

*Twentieth*—Exempting property from taxation.

*Twenty-first*—Changing county seats.

*Twenty-second*—Restoring to citizenship persons convicted of infamous crimes.

*Twenty-third*—Regulating the rate of interest on money.

*Twenty-fourth*—Authorizing the creation, extension, or impairing of liens.

*Twenty-fifth*—Chartering or licensing ferries, bridges, or roads.

*Twenty-sixth*—Remitting fines, penalties, or forfeitures.

*Twenty-seventh*—Providing for the management of common schools.

*Twenty-eighth*—Creating offices, or prescribing the powers and duties of officers in counties, cities, cities and counties, townships, election or school districts.

*Twenty-ninth*—Affecting the fees or salary of any officer.

*Thirtieth*—Changing the law of descent or succession.

*Thirty-first*—Authorizing the adoption or legitimation of children.

*Thirty-second*—For limitation of civil or criminal actions.

*Thirty-third*—In all other cases where a general law can be made applicable.

SEC. 26. The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets, or tickets in any scheme in the nature of a lottery. The Legislature shall pass laws to regulate or prohibit the buying and selling of the shares of the capital stock of corporations in any stock board, stock exchange, stock market under the control of any association. All contracts for the sale of shares of the capital stock of any corporation or association, on margin or to be delivered at a future day, shall be void, and any money paid on such contracts may be recovered by the party suing it by suit in any Court of competent jurisdiction.

SEC. 27. When a congressional district shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county, or city and county, shall be divided in forming a congressional district so as to attach one portion of a county, or city and county, to another county, or city and county, except in cases where one county, or city and county, has more population than the ratio required for one or more Congressmen; but the Legislature may divide any county, or city and county, into as many congressional districts as it may be entitled to by law. Any county, or city and county, containing a population greater than the number required for one congressional district, shall be formed into one or more congressional districts, according to the population thereof, and any residue, after forming such district or districts, shall be attached by compact adjoining assembly districts, to a contiguous county or counties, and form a congressional district. In dividing a county, or city and county, into congressional districts, no assembly district shall be divided so as to form a part of more than one congressional district, and every such congressional district shall be composed of compact contiguous assembly districts.

SEC. 28. In all elections by the Legislature the members thereof shall vote *viva voce*, and the votes shall be entered on the Journal.

SEC. 29. The general appropriation bill shall contain no item or items of appropriation other than such as are required to pay the salaries of the State officers, the expenses of the government, and of institutions under the exclusive control and management of the same.

SEC. 30. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious body, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by

the State, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to section twenty-two of this article.

SEC. 31. The Legislature shall have no power to give or to lend or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever nor shall it have power to make any gift, or authorize the making of any gift, of any public money or thing of value to any individual municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to section twenty-two of this article; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever.

SEC. 32. The Legislature shall have no power to grant, or authorize any county or municipal authority to grant, any extra compensation or allowance to any public officer, agent, servant, or contractor, after service has been rendered, or a contract has been entered into and performed, in whole or in part, nor to pay, or to authorize the payment of, any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

SEC. 33. The Legislature shall pass laws for the regulation and limitation of the charges for services performed and commodities furnished by telegraph and gas corporations, and the charges by corporations or individuals for storage and wharfage, in which there is a public use; and where laws shall provide for the selection of any person or officer to regulate and limit such rates, no such person or officer shall be selected by any corporation or individual interested in the business to be regulated, and no person shall be selected who is an officer or stockholder in any such corporation.

SEC. 34. No bill making an appropriation of money, except the general appropriation bill, shall contain more than one item of appropriation, and that for one single and certain purpose to be therein expressed.

SEC. 35. Any person who seeks to influence the vote of a member of the Legislature by bribery, promise of reward, intimidation, or any other dishonest means, shall be guilty of lobbying, which is hereby declared a felony; and it shall be the duty of the Legislature to provide, by law, for the punishment of this crime. Any member of the Legislature, who shall be influenced in his vote or action upon any matter pending before the Legislature by any reward, or promise of future reward, shall be deemed guilty of a felony, and upon conviction thereof, in addition to such punishment as may be provided by law, shall be disfranchised and forever disqualified from holding an office or public trust. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or with having been influenced in his vote or action.

s a member of the Legislature, by reward, or promise of future  
eward, and shall not be permitted to withhold his testimony upon  
he ground that it may criminate himself or subject him to public  
nfamy; but such testimony shall not afterwards be used against  
im in any judicial proceeding, except for perjury in giving such  
estimony.

## ARTICLE V.

### EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be  
ested in a Chief Magistrate, who shall be styled the Governor of the  
tate of California.

SEC. 2. - The Governor shall be elected by the qualified electors at  
ie time and places of voting for members of the Assembly, and shall  
old his office four years from and after the first Monday after the  
rst day of January subsequent to his election, and until his successor  
elected and qualified.

SEC. 3. No person shall be eligible to the office of Governor who  
as not been a citizen of the United States and a resident of this  
tate five years next preceding his election, and attained the age of  
venty-five years at the time of such election.

SEC. 4. The returns of every election for Governor shall be sealed  
and transmitted to the seat of government, directed to the Speaker  
the Assembly, who shall, during the first week of the session, open  
d publish them in the presence of both Houses of the Legislature.  
he person having the highest number of votes shall be Governor;  
ut, in case any two or more have an equal and the highest number of  
votes, the Legislature shall, by joint vote of both Houses, choose  
one of such persons so having an equal and the highest number of  
votes for Governor.

SEC. 5. The Governor shall be Commander-in-Chief of the mili-  
tary, the army and navy of this State.

SEC. 6. He shall transact all executive business with the officers  
of government, civil and military, and may require information, in  
writing, from the officers of the executive department, upon any  
object relating to the duties of their respective offices.

SEC. 7. He shall see that the laws are faithfully executed.

SEC. 8. When any office shall, from any cause, become vacant,  
and no mode is provided by the Constitution and law for filling such  
vacancy, the Governor shall have power to fill such vacancy by  
appointing a commission, which shall expire at the end of the next  
session of the Legislature, or at the next election by the people.

SEC. 9. He may, on extraordinary occasions, convene the Legisla-  
ture by proclamation, stating the purposes for which he has convened  
and when so convened it shall have no power to legislate on any  
objects other than those specified in the proclamation, but may pro-  
vide for the expenses of the session and other matters incidental  
thereto.

SEC. 10. He shall communicate by message to the Legislature, at  
every session, the condition of the State, and recommend such mat-  
ters as he shall deem expedient.

SEC. 11. In case of a disagreement between the two Houses with  
spect to the time of adjournment, the Governor shall have power to  
journ the Legislature to such time as he may think proper; *provided*,  
be not beyond the time fixed for the meeting of the next Legislature.

SEC. 12. No person shall, while holding any office under the United States or this State, exercise the office of Governor except hereinafter expressly provided.

SEC. 13. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The Great Seal of the State of California."

SEC. 14. All grants and commissions shall be in the name and by the authority of The People of the State of California, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

SEC. 15. A Lieutenant-Governor shall be elected at the same time and places, and in the same manner, as the Governor; and his term of office and his qualifications of eligibility shall also be the same. He shall be President of the Senate, but shall have only a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President pro tempore of the Senate shall act as Governor until the vacancy be filled or the disability shall cease. The Lieutenant-Governor shall be disqualified from holding any other office, except as specially provided in this Constitution, during the term for which he shall have been elected.

SEC. 16. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of any military force thereof, he shall continue Commander-in-Chief of all the military force of the State.

SEC. 17. A Secretary of State, a Controller, a Treasurer, an Attorney-General, and a Surveyor-General shall be elected at the same time and places, and in the same manner as the Governor and Lieutenant-Governor, and their terms of office shall be the same as that of the Governor.

SEC. 18. The Secretary of State shall keep a correct record of the official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matter relative thereto, before either branch of the Legislature, and shall perform such other duties as may be assigned him by law.

SEC. 19. The Governor, Lieutenant-Governor, Secretary of State, Controller, Treasurer, Attorney-General, and Surveyor-General shall, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected, which compensation is hereby fixed for the following officers for the two terms next ensuing the adoption of this Constitution, as follows: Governor, six thousand dollars per annum; Lieutenant-Governor, the same per diem as may be provided by law for the Speaker of the Assembly, to be allowed only during the session of the Legislature; the Secretary of State, Controller, Treasurer, Attorney-General, and Surveyor-General, three thousand dollars each per annum, such compensation to be in full for all services by them respectively rendered in any official capacity or employment whatsoever during

their respective terms of office; *provided, however,* that the Legislature, after the expiration of the terms hereinbefore mentioned, may, by law, diminish the compensation of any or all of such officers, but in no case shall have the power to increase the same above the sums hereby fixed by this Constitution. No salary shall be authorized by law for clerical service, in any office provided for in this article, exceeding sixteen hundred dollars per annum for each clerk employed. The Legislature may, in its discretion, abolish the office of Surveyor-General; and none of the officers hereinbefore named shall receive for their own use any fees or perquisites for the performance of any official duty.

SEC. 20. The Governor shall not, during his term of office, be elected a Senator to the Senate of the United States.

## ARTICLE VI.

### JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in the Senate sitting as a Court of Impeachment, in a Supreme Court, Superior Courts, Justices of the Peace, and such inferior Courts as the Legislature may establish in any incorporated city or town, or city and county.

SEC. 2. The Supreme Court shall consist of a Chief Justice and six Associate Justices. The Court may sit in departments and in bank, and shall always be open for the transaction of business. There shall be two departments, denominated, respectively, Department One and Department Two. The Chief Justice shall assign three of the Associate Justices to each department, and such assignment may be changed by him from time to time. The Associate Justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves or as ordered by the Chief Justice. Each of the departments shall have the power to hear and determine causes and all questions arising therein, subject to the provisions hereinafter contained in relation to the Court in bank. The presence of three Justices shall be necessary to transact any business in either of the departments, except such as may be done at Chambers, and the concurrence of three Justices shall be necessary to pronounce a judgment. The Chief Justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the Court to be heard and decided by the Court in bank. The order may be made before or after judgment pronounced by a department; but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within thirty days after such judgment, and concurred in by two Associate Justices, and if so made it shall have the effect to vacate and set aside the judgment. Any four Justices may, either before or after judgment by a department, order a case to be heard in bank. If the order be not made within the time above limited the judgment shall be final. No judgment by a department shall become final until the expiration of the period of thirty days aforesaid, unless approved by the Chief Justice, in writing, with the concurrence of two Associate Justices. The Chief Justice may convene the Court in bank at any time, and shall be the presiding Justice of the Court when so convened. The concurrence of four Justices present at the argument shall be necessary to pro-

nounce a judgment in bank; but if four Justices, so present, do not concur in a judgment, then all the Justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of four Judges shall be necessary. In the determination of causes, all decisions of the Court in bank or in departments shall be given in writing, and the grounds of the decision shall be stated. The Chief Justice may sit in either department, and shall preside when so sitting, but the Justices assigned to each department shall select one of their number as presiding Justice. In case of the absence of the Chief Justice from the place at which the Court is held, or his inability to act, the Associate Justices shall select one of their own number to perform the duties and exercise the powers of the Chief Justice during such absence or inability to act.

SEC. 3. The Chief Justice and the Associate Justices shall be elected by the qualified electors of the State at large at the general State elections, at the times and places at which State officers are elected; and the term of office shall be twelve years, from and after the first Monday after the first day of January next succeeding their election; *provided*, that the six Associate Justices elected at the first election shall, at their first meeting, so classify themselves, by lot, that two of them shall go out of office at the end of four years, two of them at the end of eight years, and two of them at the end of twelve years, and an entry of such classification shall be made in the minutes of the Court in bank, signed by them, and a duplicate thereof shall be filed in the office of the Secretary of State. If a vacancy occur in the office of a Justice, the Governor shall appoint a person to hold the office until the election and qualification of a Justice to fill the vacancy, which election shall take place at the next succeeding general election, and the Justice so elected shall hold the office for the remainder of the unexpired term. The first election of the Justices shall be at the first general election after the adoption and ratification of this Constitution.

SEC. 4. The Supreme Court shall have appellate jurisdiction in all cases in equity, except such as arise in Justices' Courts; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars; also, in cases of forcible entry and detainer, and in proceedings in insolvency, and in actions to prevent or abate a nuisance, and in all such probate matters as may be provided by law; also, in all criminal cases prosecuted by indictment, or information in a Court of record on questions of law alone. The Court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the Justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself, or the Supreme Court, or before any Superior Court in the State, or before any Judge thereof.

SEC. 5. The Superior Court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest or the value of the property in controversy,

amounts to three hundred dollars, and in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and for annulment of marriage, and of all such special cases and proceedings as are not otherwise provided for. And said Court shall have the power of naturalization, and to issue papers therefor. They shall have appellate jurisdiction in such cases arising in Justices' and other inferior Courts in their respective counties as may be prescribed by law. They shall be always open (legal holidays and non-judicial days excepted), and their process shall extend to all parts of the State; *provided*, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof affected by such action or actions, is situated. Said Courts, and their Judges, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days.

SEC. 6. There shall be in each of the organized counties, or cities and counties of the State, a Superior Court, for each of which at least one Judge shall be elected by the qualified electors of the county, or city and county, at the general State election; *provided*, that until otherwise ordered by the Legislature, only one Judge shall be elected for the Counties of Yuba and Sutter, and that in the City and County of San Francisco there shall be elected twelve Judges of the Superior Court, any one or more of whom may hold Court. There may be as many sessions of said Court, at the same time, as there are Judges thereof. The said Judges shall choose from their own number a presiding Judge, who may be removed at their pleasure. He shall distribute the business of the Court among the Judges thereof, and prescribe the order of business. The judgments, orders, and proceedings of any session of the Superior Court, held by any one or more of the Judges of said Courts, respectively, shall be equally effectual as if all the Judges of said respective Courts presided at such session. In each of the Counties of Sacramento, San Joaquin, Los Angeles, Sonoma, Santa Clara, and Alameda, there shall be elected two such Judges. The term of office of Judges of the Superior Courts shall be six years from and after the first Monday of January next succeeding their election; *provided*, that the twelve Judges of the Superior Court, elected in the City and County of San Francisco at the first election held under this Constitution, shall, at their first meeting, so classify themselves, by lot, that four of them shall go out of office at the end of two years, and four of them shall go out of office at the end of four years, and four of them shall go out of office at the end of six years, and an entry of such classification shall be made in the minutes of the Court, signed by them, and a duplicate thereof filed in the office of the Secretary of State. The first election of Judges of the Superior Courts shall take place at the first general election held after the adoption and ratification of this Constitution. If a vacancy occur in the office of Judge of a Superior Court, the Governor shall appoint a person to hold the office until the election and qualification of a Judge to fill the vacancy, which election shall

take place at the next succeeding general election, and the Judge so elected shall hold office for the remainder of the unexpired term.

SEC. 7. In any county, or city and county, other than the City and County of San Francisco, in which there shall be more than one Judge of the Superior Court, the Judges of such Court may hold as many sessions of said Court at the same time as there are Judges thereof, and shall apportion the business among themselves as equally as may be.

SEC. 8. A Judge of any Superior Court may hold a Superior Court in any county, at the request of a Judge of the Superior Court thereof, and upon the request of the Governor it shall be his duty so to do. But a cause in a Superior Court may be tried by a Judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant or their attorneys of record, approved by the Court, and sworn to try the cause.

SEC. 9. The Legislature shall have no power to grant leave of absence to any judicial officer; and any such officer who shall absent himself from the State for more than sixty consecutive days shall be deemed to have forfeited his office. The Legislature of the State may at any time, two-thirds of the members of the Senate and two-thirds of the members of the Assembly voting therefor, increase or diminish the number of Judges of the Superior Court in any county, or city and county, in the State; *provided*, that no such reduction shall affect any Judge who has been elected.

SEC. 10. Justices of the Supreme Court, and Judges of the Superior Courts, may be removed by concurrent resolution of both Houses of the Legislature, adopted by a two-thirds vote of each House. All other judicial officers, except Justices of the Peace, may be removed by the Senate on the recommendation of the Governor, but no removal shall be made by virtue of this section, unless the cause thereof be entered on the Journal, nor unless the party complained of has been served with a copy of the complaint against him, and shall have had an opportunity of being heard in his defense. On the question of removal, the ayes and noes shall be entered on the Journal.

SEC. 11. The Legislature shall determine the number of Justices of the Peace to be elected in townships, incorporated cities and towns, or cities and counties, and shall fix by law the powers, duties, and responsibilities of Justices of the Peace; *provided*, such powers shall not in any case trench upon the jurisdiction of the several Courts of record, except that said Justices shall have concurrent jurisdiction with the Superior Courts in cases of forcible entry and detainer, where the rental value does not exceed twenty-five dollars per month, and where the whole amount of damages claimed does not exceed two hundred dollars, and in cases to enforce and foreclose liens on personal property when neither the amount of the liens nor the value of the property amounts to three hundred dollars.

SEC. 12. The Supreme Court, the Superior Courts, and such other Courts as the Legislature shall prescribe, shall be Courts of record.

SEC. 13. The Legislature shall fix by law the jurisdiction of any inferior Courts which may be established in pursuance of section one of this article, and shall fix by law the powers, duties, and responsibilities of the Judges thereof.

SEC. 14. The Legislature shall provide for the election of a Clerk of the Supreme Court, and shall fix by law his duties and compen-

sation, which compensation shall not be increased or diminished during the term for which he shall have been elected. The County Clerks shall be ex officio Clerks of the Courts of record in and for their respective counties, or cities and counties. The Legislature may also provide for the appointment, by the several Superior Courts, of one or more Commissioners in their respective counties, or cities and counties, with authority to perform Chamber business of the Judges of the Superior Courts, to take depositions, and perform such other business connected with the administration of justice as may be prescribed by law.

SEC. 15. No judicial officer, except Justices of the Peace and Court Commissioners, shall receive to his own use any fees or perquisites of office.

SEC. 16. The Legislature shall provide for the speedy publication of such opinions of the Supreme Court as it may deem expedient, and all opinions shall be free for publication by any person.

SEC. 17. The Justices of the Supreme Court and Judges of the Superior Court shall severally, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished after their election, nor during the term for which they shall have been elected. The salaries of the Justices of the Supreme Court shall be paid by the State. One-half of the salary of each Superior Court Judge shall be paid by the State; the other half thereof shall be paid by the county for which he is elected. During the term of the first Judges elected under this Constitution, the annual salaries of the Justices of the Supreme Court shall be six thousand dollars each. Until otherwise changed by the Legislature, the Superior Court Judges shall receive an annual salary of three thousand dollars each, payable monthly, except the Judges of the City and County of San Francisco, and the Counties of Alameda, San Joaquin, Los Angeles, Santa Clara, Yuba and Sutter combined, Sacramento, Butte, Nevada, and Sonoma, which shall receive four thousand dollars each.

SEC. 18. The Justices of the Supreme Court and Judges of the Superior Courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected.

SEC. 19. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

SEC. 20. The style of all process shall be, "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

SEC. 21. The Justices shall appoint a Reporter of the decisions of the Supreme Court, who shall hold his office and be removable at their pleasure. He shall receive an annual salary not to exceed twenty-five hundred dollars, payable monthly.

SEC. 22. No Judge of a Court of record shall practice law in any Court of this State during his continuance in office.

SEC. 23. No one shall be eligible to the office of Justice of the Supreme Court, or to the office of Judge of a Superior Court, unless he shall have been admitted to practice before the Supreme Court of the State.

SEC. 24. No Judge of a Superior Court nor of the Supreme Court shall, after the first day of July, one thousand eight hundred and

eighty, be allowed to draw or receive any monthly salary unless he shall take and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his Court remains undecided that has been submitted for decision for the period of ninety days.

## ARTICLE VII.

### PARDONING POWER.

**SECTION 1.** The Governor shall have the power to grant reprieves, pardons, and commutations of sentence, after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, the Governor shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. The Governor shall communicate to the Legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence, its date, the date of the pardon or reprieve, and the reasons for granting the same. Neither the Governor nor the Legislature shall have power to grant pardons, or commutations of sentence, in any case where the convict has been twice convicted of felony, unless upon the written recommendation of a majority of the Judges of the Supreme Court.

## ARTICLE VIII.

### MILITIA.

**SECTION 1.** The Legislature shall provide, by law, for organizing and disciplining the militia, in such manner as it may deem expedient, not incompatible with the Constitution and laws of the United States. Officers of the militia shall be elected or appointed in such manner as the Legislature shall from time to time direct, and shall be commissioned by the Governor. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions.

**SEC. 2.** All military organizations provided for by this Constitution, or any law of this State, and receiving State support, shall, while under arms either for ceremony or duty, carry no device, banner, or flag of any State or nation, except that of the United States or the State of California.

## ARTICLE IX.

### EDUCATION.

**SECTION 1.** A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

**SEC. 2.** A Superintendent of Public Instruction shall, at each gubernatorial election after the adoption of this Constitution, be elected by the qualified electors of the State. He shall receive a sal-

ary equal to that of the Secretary of State, and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election.

SEC. 3. A Superintendent of Schools for each county shall be elected by the qualified electors thereof at each gubernatorial election; *provided*, that the Legislature may authorize two or more counties to unite and elect one Superintendent for the counties so uniting.

SEC. 4. The proceeds of all lands that have been or may be granted by the United States to this State for the support of common schools which may be, or may have been, sold or disposed of, and the five hundred thousand acres of land granted to the new States under an Act of Congress distributing the proceeds of the public lands among the several States of the Union, approved A. D. one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may be granted, or may have been granted, by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.

SEC. 5. The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

SEC. 6. The public school system shall include primary and grammar schools, and such high schools, evening schools, normal schools, and technical schools as may be established by the Legislature, or by municipal or district authority; but the entire revenue derived from the State School Fund, and the State school tax, shall be applied exclusively to the support of primary and grammar schools.

SEC. 7. The local Boards of Education, and the Boards of Supervisors, and County Superintendents of the several counties which may not have County Boards of Education, shall adopt a series of text-books for the use of the common schools within their respective jurisdictions; the text-books so adopted shall continue in use for not less than four years; they shall also have control of the examination of teachers and the granting of teachers' certificates within their several jurisdictions.

SEC. 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

SEC. 9. The University of California shall constitute a public trust, and its organization and government shall be perpetually continued in the form and character prescribed by the organic Act creating the same, passed March twenty-third, eighteen hundred and sixty-eight (and the several Acts amendatory thereof), subject only to such legislative control as may be necessary to insure compliance with the terms of its endowments, and the proper investment and security of its funds. It shall be entirely independent of all political or sectarian influence, and kept free therefrom in the appointment

of its Regents, and in the administration of its affairs; *provided*, that all the moneys derived from the sale of the public lands donated to this State by Act of Congress, approved July second, eighteen hundred and sixty-two (and the several Acts amendatory thereof), shall be invested as provided by said Acts of Congress, and the interest of said moneys shall be inviolably appropriated to the endowment, support, and maintenance of at least one College of Agriculture, where the leading objects shall be (without excluding other scientific and classical studies, and including military tactics) to teach such branches of learning as are related to scientific and practical agriculture and the mechanic arts, in accordance with the requirements and conditions of said Acts of Congress; and the Legislature shall provide that if, through neglect, misappropriation, or any other contingency, any portion of the funds so set apart shall be diminished or lost, the State shall replace such portion so lost or misappropriated, so that the principal thereof shall remain forever undiminished. No person shall be debarred admission to any of the collegiate departments of the University on account of sex.

## ARTICLE X.

### STATE INSTITUTIONS AND PUBLIC BUILDINGS.

**SECTION 1.** There shall be a State Board of Prison Directors, to consist of five persons, to be appointed by the Governor, with the advice and consent of the Senate, who shall hold office for ten years, except that the first appointed shall, in such manner as the Legislature may direct, be so classified that the term of one person so appointed shall expire at the end of each two years during the first ten years, and vacancies occurring shall be filled in like manner. The appointee to a vacancy, occurring before the expiration of a term, shall hold office only for the unexpired term of his predecessor. The Governor shall have the power to remove either of the directors for misconduct, incompetency, or neglect of duty, after an opportunity to be heard upon written charges.

**SEC. 2.** The Board of Directors shall have the charge and superintendence of the State Prisons, and shall possess such powers, and perform such duties, in respect to other penal and reformatory institutions of the State, as the Legislature may prescribe.

**SEC. 3.** The Board shall appoint the Warden and Clerk, and determine the other necessary officers of the Prisons. The Board shall have power to remove the Wardens and Clerks for misconduct, incompetency, or neglect of duty. All other officers and employés of the Prisons shall be appointed by the Warden thereof, and be removed at his pleasure.

**SEC. 4.** The members of the Board shall receive no compensation other than reasonable traveling and other expenses incurred while engaged in the performance of official duties, to be audited as the Legislature may direct.

**SEC. 5.** The Legislature shall pass such laws as may be necessary to further define and regulate the powers and duties of the Board, Wardens, and Clerks, and to carry into effect the provisions of this article.

**SEC. 6.** After the first day of January, eighteen hundred and eighty-two, the labor of convicts shall not be let out by contract to any person, copartnership, company, or corporation, and the Legis-

lature shall, by law, provide for the working of convicts for the benefit of the State.

## ARTICLE XI.

### CITIES, COUNTIES, AND TOWNS.

**SECTION 1.** The several counties, as they now exist, are hereby recognized as legal subdivisions of this State.

**SEC. 2.** No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

**SEC. 3.** No new county shall be established which shall reduce any county to a population of less than eight thousand; nor shall a new county be formed containing a less population than five thousand; nor shall any line thereof pass within five miles of the county seat of any county proposed to be divided. Every county which shall be enlarged or created from territory taken from any other county or counties, shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken.

**SEC. 4.** The Legislature shall establish a system of county governments which shall be uniform throughout the State; and by general laws shall provide for township organization, under which any county may organize whenever a majority of the qualified electors of such county, voting at a general election, shall so determine; and, whenever a county shall adopt township organization, the assessment and collection of the revenue shall be made, and the business of such county and the local affairs of the several townships therein shall be managed and transacted in the manner prescribed by such general laws.

**Appointing Officers**  
**SEC. 5.** The Legislature, by general and uniform laws, shall provide for the election or appointment, in the several counties, of Boards of Supervisors, Sheriffs, County Clerks, District Attorneys, and such other county, township, and municipal officers as public convenience may require, and shall prescribe their duties, and fix their terms of office. It shall regulate the compensation of all such officers, in proportion to duties, and for this purpose may classify the counties by population; and it shall provide for the strict accountability of county and township officers for all fees which may be collected by them, and for all public and municipal moneys which may be paid to them, or officially come into their possession.

**SEC. 6.** Corporations for municipal purposes shall not be created by special laws; but the Legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities or towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this Constitution, shall be subject to and controlled by general laws.

**SEC. 7.** City and county governments may be merged and consolidated into one municipal government, with one set of officers, and

may be incorporated under general laws providing for the incorporation and organization of corporations for municipal purposes. The provisions of this Constitution applicable to cities, and also those applicable to counties, so far as not inconsistent or not prohibited to cities, shall be applicable to such consolidated government. In consolidated city and county governments, of more than one hundred thousand population, there shall be two Boards of Supervisors or Houses of Legislation—one of which, to consist of twelve persons, shall be elected by general ticket from the city and county at large, and shall hold office for the term of four years, but shall be so classified that after the first election only six shall be elected every two years; the other, to consist of twelve persons, shall be elected every two years, and shall hold office for the term of two years. Any vacancy occurring in the office of Supervisor, in either Board, shall be filled by the Mayor or other chief executive officer.

SEC. 8. Any city containing a population of more than one hundred thousand inhabitants may frame a charter for its own government, consistent with and subject to the Constitution and laws of this State, by causing a Board of fifteen freeholders, who shall have been for at least five years qualified electors thereof, to be elected by the qualified voters of such city, at any general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city, which shall be signed in duplicate by the members of such Board, or a majority of them, and returned, one copy thereof to the Mayor, or other chief executive officer of such city, and the other to the Recorder of deeds of the county. Such proposed charter shall then be published in two daily papers of general circulation in such city for at least twenty days, and within not less than thirty days after such publication it shall be submitted to the qualified electors of such city at a general or special election, and if a majority of such qualified electors voting thereat shall ratify the same, it shall thereafter be submitted to the Legislature for its approval or rejection as a whole, without power of alteration or amendment, and if approved by a majority vote of the members elected to each House, it shall become the charter of such city, or if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede any existing charter and all amendments thereof, and all special laws inconsistent with such charter. A copy of such charter, certified by the Mayor, or chief executive officer, and authenticated by the seal of such city, setting forth the submission of such charter to the electors and its ratification by them, shall be made in duplicate and deposited, one in the office of the Secretary of State, the other, after being recorded in the office of the Recorder of deeds of the county, among the archives of the city; all Courts shall take judicial notice thereof. The charter so ratified may be amended at intervals of not less than two years, by proposals therefor, submitted by legislative authority of the city to the qualified voters thereof, at a general or special election held at least sixty days after the publication of such proposals, and ratified by at least three-fifths of the qualified electors voting thereat, and approved by the Legislature as herein provided for the approval of the charter. In submitting any such charter, or amendment thereto, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

SEC. 9. The compensation of any county, city, town, or municipal officer shall not be increased after his election or during his term of office; nor shall the term of any such officer be extended beyond the period for which he is elected or appointed.

SEC. 10. No county, city, town, or other public or municipal corporation, nor the inhabitants thereof, nor the property therein, shall be released or discharged from its or their proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

SEC. 11. Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws.

SEC. 12. The Legislature shall have no power to impose taxes upon counties, cities, towns, or other public or municipal corporations, or upon the inhabitants or property thereof, for county, city, town, or other municipal purposes, but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes. *no commutation*

SEC. 13. The Legislature shall not delegate to any special commission, private corporation, company, association, or individual, any power to make, control, appropriate, supervise, or in any way interfere with, any county, city, town, or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments, or perform any municipal functions whatever.

SEC. 14. No State office shall be continued or created in any county, city, town, or other municipality, for the inspection, measurement, or graduation of any merchandise, manufacture, or commodity; but such county, city, town, or municipality may, when authorized by general law, appoint such officers.

SEC. 15. Private property shall not be taken or sold for the payment of the corporate debt of any political or municipal corporation.

SEC. 16. All moneys, assessments, and taxes belonging to or collected for the use of any county, city, town, or other public or municipal corporation, coming into the hands of any officer thereof, shall immediately be deposited with the Treasurer, or other legal depositary, to the credit of such city, town, or other corporation respectively, for the benefit of the funds to which they respectively belong.

SEC. 17. The making of profit out of county, city, town, or other public money, or using the same for any purpose not authorized by law, by any officer having the possession or control thereof, shall be a felony, and shall be prosecuted and punished as prescribed by law.

SEC. 18. No county, city, town, township, Board of Education, or school district, shall incur any indebtedness or liability in any manner, or for any purpose, exceeding in any year the income and revenue provided for it for such year, without the assent of two-thirds of the qualified electors thereof voting at an election to be held for that purpose, nor unless, before or at the time of incurring such indebtedness, provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within twenty years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void.

SEC. 19. No public work or improvement of any description whatsoever shall be done or made, in any city, in, upon, or about the streets thereof, or otherwise, the cost and expense of which is made chargeable or may be assessed upon private property by special assessment, unless an estimate of such cost and expense shall be made, and an assessment, in proportion to benefits, on the property to be affected or benefited, shall be levied, collected, and paid into the city treasury before such work or improvement shall be commenced, or any contract for letting or doing the same authorized or performed. In any city where there are no public works owned and controlled by the municipality, for supplying the same with water or artificial light, any individual, or any company duly incorporated for such purpose under and by authority of the laws of this State, shall, under the direction of the Superintendent of Streets, or other officer in control thereof, and under such general regulations as the municipality may prescribe for damages and indemnity for damages, have the privilege of using the public streets and thoroughfares thereof, and of laying down pipes and conduits therein, and connections therewith, so far as may be necessary for introducing into and supplying such city and its inhabitants either with gas-light or other illuminating light, or with fresh water for domestic and all other purposes, upon the condition that the municipal government shall have the right to regulate the charges thereof.

## ARTICLE XII.

### CORPORATIONS.

SECTION 1. Corporations may be formed under general laws, but shall not be created by special Act. All laws now in force in this State concerning corporations, and all laws that may be hereafter passed pursuant to this section, may be altered from time to time or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

SEC. 3. Each stockholder of a corporation, or joint-stock association, shall be individually and personally liable for such proportion of all its debts and liabilities contracted or incurred, during the time he was a stockholder, as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock, or shares of the corporation or association. The directors or trustees of corporations and joint-stock associations shall be jointly and severally liable to the creditors and stockholders for all moneys embezzled or misappropriated by the officers of such corporation, or joint-stock association, during the term of office of such director or trustee.

SEC. 4. The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships; and all corporations shall have the right to sue and shall be subject to be sued, in all Courts, in like cases as natural persons.

SEC. 5. The Legislature shall have no power to pass any Act granting any charter for banking purposes, but corporations or associations may be formed for such purposes under general laws. No corporation, association, or individual shall issue or put in circulation, as money, anything but the lawful money of the United States.

SEC. 6. All existing charters, grants, franchises, special or exclusive privileges, under which an actual and bona fide organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity.

SEC. 7. The Legislature shall not extend any franchise or charter, nor remit the forfeiture of any franchise or charter of any corporation now existing, or which shall hereafter exist under the laws of this State.

SEC. 8. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use the same as the property of individuals, and the exercise of the police power of the State shall never be so abridged or construed as to permit corporations to conduct their business in such manner as to infringe the rights of individuals or the general well-being of the State.

SEC. 9. No corporation shall engage in any business other than that expressly authorized in its charter, or the law under which it may have been or may hereafter be organized; nor shall it hold for a longer period than five years any real estate except such as may be necessary for carrying on its business.

SEC. 10. The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise, or any of its privileges.

SEC. 11. No corporation shall issue stock or bonds, except for money paid, labor done, or property actually received, and all fictitious increase of stock or indebtedness shall be void. The stock and bonded indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock, at a meeting called for that purpose, giving sixty days' public notice, as may be provided by law.

SEC. 12. In all elections for directors or managers of corporations every stockholder shall have the right to vote, in person or by proxy, the number of shares of stock owned by him for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them, on the same principle, among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner, except that members of co-operative societies formed for agricultural, mercantile, and manufacturing purposes, may vote on all questions affecting such societies in manner prescribed by law.

SEC. 13. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation.

SEC. 14. Every corporation other than religious, educational, or benevolent, organized or doing business in this State, shall have and maintain an office or place in this State for the transaction of its business, where transfers of stock shall be made, and in which shall

be kept, for inspection by every person having an interest therein, and legislative committees, books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in, and by whom; the transfers of stock; the amount of its assets and liabilities, and the names and place of residence of its officers.

SEC. 15. No corporation organized outside the limits of this State shall be allowed to transact business within this State on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this State.

SEC. 16. A corporation or association may be sued in the county where the contract is made or is to be performed, or where the obligation or liability arises, or the breach occurs; or in the county where the principal place of business of such corporation is situated, subject to the power of the Court to change the place of trial as in other cases.

SEC. 17. All railroad, canal, and other transportation companies are declared to be common carriers, and subject to legislative control. Any association or corporation, organized for the purpose, under the laws of this State, shall have the right to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with or cross any other railroad, and shall receive and transport each the other's passengers, tonnage, and cars, without delay or discrimination.

SEC. 18. No president, director, officer, agent, or employé of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, nor in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company, except such interest in the business of transportation as lawfully flows from the ownership of stock therein.

SEC. 19. No railroad or other transportation company shall grant free passes, or passes or tickets at a discount, to any person holding any office of honor, trust, or profit in this State; and the acceptance of any such pass or ticket, by a member of the Legislature or any public officer, other than Railroad Commissioner, shall work a forfeiture of his office.

SEC. 20. No railroad company or other common carrier shall combine or make any contract with the owners of any vessel that leaves port or makes port in this State, or with any common carrier, by which combination or contract the earnings of one doing the carrying are to be shared by the other not doing the carrying. And whenever a railroad corporation shall, for the purpose of competing with any other common carrier, lower its rates for transportation of passengers or freight from one point to another, such reduced rates shall not be again raised or increased from such standard without the consent of the governmental authority in which shall be vested the power to regulate fares and freights.

SEC. 21. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this State, or coming from or going to any other State. Persons and property transported over any railroad, or by any other transportation company or

individual, shall be delivered at any station, landing, or port, at charges not exceeding the charges for the transportation of persons and property of the same class, in the same direction, to any more distant station, port, or landing. Excursion and commutation tickets may be issued at special rates.

SEC. 22. The State shall be divided into three districts as nearly equal in population as practicable, in each of which one Railroad Commissioner shall be elected by the qualified electors thereof at the regular gubernatorial elections, whose salary shall be fixed by law, and whose term of office shall be four years, commencing on the first Monday after the first day of January next succeeding their election. Said Commissioners shall be qualified electors of this State and of the district from which they are elected, and shall not be interested in any railroad corporation, or other transportation company, as stockholder, creditor, agent, attorney or employé; and the act of a majority of said Commissioners shall be deemed the act of said Commission. Said Commissioners shall have the power, and it shall be their duty, to establish rates of charges for the transportation of passengers and freight by railroad or other transportation companies, and publish the same from time to time, with such changes as they may make; to examine the books, records, and papers of all railroad and other transportation companies, and for this purpose they shall have power to issue subpœnas and all other necessary process; to hear and determine complaints against railroad and other transportation companies, to send for persons and papers, to administer oaths, take testimony, and punish for contempt of their orders and processes, in the same manner and to the same extent as Courts of record, and enforce their decisions and correct abuses through the medium of the Courts. Said Commissioners shall prescribe a uniform system of accounts to be kept by all such corporations and companies. Any railroad corporation or transportation company which shall fail or refuse to conform to such rates as shall be established by such Commissioners, or shall charge rates in excess thereof, or shall fail to keep their accounts in accordance with the system prescribed by the Commission, shall be fined not exceeding twenty thousand dollars for each offense, and every officer, agent, or employé of any such corporation or company, who shall demand or receive rates in excess thereof, or who shall in any manner violate the provisions of this section, shall be fined not exceeding five thousand dollars, or be imprisoned in the county jail not exceeding one year. In all controversies, civil or criminal, the rates of fares and freights established by said Commission shall be deemed conclusively just and reasonable, and in any action against such corporation or company for damages sustained by charging excessive rates, the plaintiff, in addition to the actual damage, may, in the discretion of the Judge or jury, recover exemplary damages. Said Commission shall report to the Governor, annually, their proceedings, and such other facts as may be deemed important. Nothing in this section shall prevent individuals from maintaining actions against any of such companies. The Legislature may, in addition to any penalties herein prescribed, enforce this article by forfeiture of charter or otherwise, and may confer such further powers on the Commissioners as shall be necessary to enable them to perform the duties enjoined on them in this and the foregoing section. The Legislature shall have power, by a two-thirds vote of all the members elected to each House, to remove

any one or more of said Commissioners from office, for dereliction of duty, or corruption, or incompetency; and whenever, from any cause, a vacancy in office shall occur in said Commission, the Governor shall fill the same by the appointment of a qualified person thereto, who shall hold office for the residue of the unexpired term, and until his successor shall have been elected and qualified.

SEC. 23. Until the Legislature shall district the State, the following shall be the railroad districts: The First District shall be composed of the Counties of Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Humboldt, Lake, Lassen, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba, from which one Railroad Commissioner shall be elected. The Second District shall be composed of the Counties of Marin, San Francisco, and San Mateo, from which one Railroad Commissioner shall be elected. The Third District shall be composed of the Counties of Alameda, Contra Costa, Fresno, Inyo, Kern, Los Angeles, Mariposa, Merced, Mono, Monterey, San Benito, San Bernardino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, Tuolumne, and Ventura, from which one Railroad Commissioner shall be elected.

SEC. 24. The Legislature shall pass all laws necessary for the enforcement of the provisions of this article.

## ARTICLE XIII.

### REVENUE AND TAXATION.

SECTION 1. All property in the State, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; *provided*, that growing crops, property used exclusively for public schools, and such as may belong to the United States, this State, or to any county or municipal corporation within this State, shall be exempt from taxation. The Legislature may provide, except in the case of credits secured by mortgage or trust deed, for a deduction from credits of debts due to bona fide residents of this State.

SEC. 2. Land, and the improvements thereon, shall be separately assessed. Cultivated and uncultivated land, of the same quality, and similarly situated, shall be assessed at the same value.

SEC. 3. Every tract of land containing more than six hundred and forty acres, and which has been sectionized by the United States Government, shall be assessed, for the purposes of taxation, by sections or fractions of sections. The Legislature shall provide by law for the assessment, in small tracts, of all lands not sectionized by the United States Government.

SEC. 4. A mortgage, deed of trust, contract, or other obligation by which a debt is secured, shall, for the purposes of assessment and taxation, be deemed and treated as an interest in the property affected thereby. Except as to railroad and other quasi public corporations, in case of debts so secured, the value of the property affected by such mortgage, deed of trust, contract, or obligation, less the value of such security, shall be assessed and taxed to the owner of the property,

and the value of such security shall be assessed and taxed to the owner thereof, in the county, city, or district in which the property affected thereby is situate. The taxes so levied shall be a lien upon the property and security, and may be paid by either party to such security; if paid by the owner of the security, the tax so levied upon the property affected thereby shall become a part of the debt so secured; if the owner of the property shall pay the tax so levied on such security, it shall constitute a payment thereon, and to the extent of such payment a full discharge thereof; *provided*, that if any such security or indebtedness shall be paid by any such debtor or debtors, after assessment and before the tax levy, the amount of such levy may likewise be retained by such debtor or debtors, and shall be computed according to the tax levy for the preceding year.

SEC. 5. Every contract hereafter made, by which a debtor is obligated to pay any tax or assessment on money loaned, or on any mortgage, deed of trust, or other lien, shall, as to any interest specified therein, and as to such tax or assessment, be null and void.

SEC. 6. The power of taxation shall never be surrendered or suspended by any grant or contract to which the State shall be a party.

SEC. 7. The Legislature shall have the power to provide by law for the payment of all taxes on real property by installments.

SEC. 8. The Legislature shall by law require each taxpayer in this State to make and deliver to the County Assessor, annually, a statement, under oath, setting forth specifically all the real and personal property owned by such taxpayer, or in his possession, or under his control, at twelve o'clock meridian, on the first Monday of March.

SEC. 9. A State Board of Equalization, consisting of one member from each congressional district in this State, shall be elected by the qualified electors of their respective districts at the general election to be held in the year one thousand eight hundred and seventy-nine, whose term of office after those first elected shall be four years, whose duty it shall be to equalize the valuation of the taxable property of the several counties in the State for the purposes of taxation. The Controller of State shall be *ex officio* a member of the Board. The Boards of Supervisors of the several counties of the State shall constitute Boards of Equalization for their respective counties, whose duty it shall be to equalize the valuation of the taxable property in the county for the purpose of taxation; *provided*, such State and County Boards of Equalization are hereby authorized and empowered, under such rules of notice as the County Boards may prescribe, as to the county assessments, and under such rules of notice as the State Board may prescribe, as to the action of the State Board, to increase or lower the entire assessment roll, or any assessment contained therein, so as to equalize the assessment of the property contained in said assessment roll, and make the assessment conform to the true value in money of the property contained in said roll.

SEC. 10. All property, except as hereinafter in this section provided, shall be assessed in the county, city, city and county, town, township, or district in which it is situated, in the manner prescribed by law. The franchise, roadway, road-bed, rails, and rolling stock of all railroads operated in more than one county in this State shall be assessed by the State Board of Equalization, at their actual value, and the same shall be apportioned to the counties, cities and counties, cities, towns, townships, and districts in which such railroads are

located, in proportion to the number of miles of railway laid in such counties, cities and counties, cities, towns, townships, and districts.

SEC. 11. Income taxes may be assessed to and collected from persons, corporations, joint-stock associations, or companies resident or doing business in this State, or any one or more of them, in such cases and amounts, and in such manner, as shall be prescribed by law.

SEC. 12. The Legislature shall provide for the levy and collection of an annual poll tax of not less than two dollars on every male inhabitant of this State, over twenty-one and under sixty years of age, except paupers, idiots, insane persons, and Indians not taxed. Said tax shall be paid into the State School Fund.

SEC. 13. The Legislature shall pass all laws necessary to carry out the provisions of this article.

## ARTICLE XIV.

### WATER AND WATER RIGHTS.

SECTION 1. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law; *provided*, that the rates or compensation to be collected by any person, company, or corporation in this State for the use of water supplied to any city and county, or city or town, or the inhabitants thereof, shall be fixed, annually, by the Board of Supervisors, or city and county, or City or Town Council, or other governing body of such city and county, or city or town, by ordinance or otherwise, in the manner that other ordinances or legislative acts or resolutions are passed by such body, and shall continue in force for one year and no longer. Such ordinances or resolutions shall be passed in the month of February of each year, and take effect on the first day of July thereafter. Any Board or body failing to pass the necessary ordinances or resolutions fixing water-rates, where necessary, within such time, shall be subject to peremptory process to compel action at the suit of any party interested, and shall be liable to such further processes and penalties as the Legislature may prescribe. Any person, company, or corporation collecting water-rates in any city and county, or city or town in this State, otherwise than as so established, shall forfeit the franchises and water-works of such person, company, or corporation to the city and county, or city or town where the same are collected, for the public use.

SEC. 2. The right to collect rates or compensation for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and cannot be exercised except by authority of and in the manner prescribed by law.

## ARTICLE XV.

### HARBOR FRONTAGES, ETC.

SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State.

SEC. 2. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public

purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

SEC. 3. All tide lands within two miles of any incorporated city or town in this State, and fronting on the waters of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations.

## ARTICLE XVI.

### STATE INDEBTEDNESS.

SECTION 1. The Legislature shall not, in any manner, create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein, which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within twenty years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until, at a general election, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt thereby created, and such law shall be published in at least one newspaper in each county, or city and county, if one be published therein, throughout the State, for three months next preceding the election at which it is submitted to the people. The Legislature may at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same.

## ARTICLE XVII.

### LAND, AND HOMESTEAD EXEMPTION.

SECTION 1. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families.

SEC. 2. The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

SEC. 3. Lands belonging to this State, which are suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as shall be prescribed by law.

## ARTICLE XVIII.

### AMENDING AND REVISING THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly, and if two-thirds of all

the members elected to each of the two Houses shall vote in favor thereof, such proposed amendment or amendments shall be entered in their Journals, with the yeas and nays taken thereon; and it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people in such manner, and at such time, and after such publication as may be deemed expedient. Should more amendments than one be submitted at the same election they shall be so prepared and distinguished, by numbers or otherwise, that each can be voted on separately. If the people shall approve and ratify such amendment or amendments, or any of them, by a majority of the qualified electors voting thereon, such amendment or amendments shall become a part of this Constitution.

SEC. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall deem it necessary to revise this Constitution, they shall recommend to the electors to vote at the next general election for or against a Convention for that purpose, and if a majority of the electors voting at such election on the proposition for a Convention shall vote in favor thereof, the Legislature shall, at its next session, provide by law for calling the same. The Convention shall consist of a number of delegates not to exceed that of both branches of the Legislature, who shall be chosen in the same manner, and have the same qualifications, as members of the Legislature. The delegates so elected shall meet within three months after their election at such place as the Legislature may direct. At a special election to be provided for by law, the Constitution that may be agreed upon by such Convention shall be submitted to the people for their ratification or rejection, in such manner as the Convention may determine. The returns of such election shall, in such manner as the Convention shall direct, be certified to the Executive of the State, who shall call to his assistance the Controller, Treasurer, and Secretary of State, and compare the returns so certified to him; and it shall be the duty of the Executive to declare, by his proclamation, such Constitution, as may have been ratified by a majority of all the votes cast at such special election, to be the Constitution of the State of California.

## ARTICLE XIX.

### CHINESE.

SECTION 1. The Legislature shall prescribe all necessary regulations for the protection of the State, and the counties, cities, and towns thereof, from the burdens and evils arising from the presence of aliens who are or may become vagrants, paupers, mendicants, criminals, or invalids afflicted with contagious or infectious diseases, and from aliens otherwise dangerous or detrimental to the well-being or peace of the State, and to impose conditions upon which such persons may reside in the State, and to provide the means and mode of their removal from the State, upon failure or refusal to comply with such conditions; *provided*, that nothing contained in this section shall be construed to impair or limit the power of the Legislature to pass such police laws or other regulations as it may deem necessary.

SEC. 2. No corporation now existing or hereafter formed under the laws of this State, shall, after the adoption of this Constitution, employ, directly or indirectly, in any capacity, any Chinese or Mongolian. The Legislature shall pass such laws as may be necessary to enforce this provision.

SEC. 3. No Chinese shall be employed on any State, county, municipal, or other public work, except in punishment for crime.

SEC. 4. The presence of foreigners ineligible to become citizens of the United States is declared to be dangerous to the well-being of the State, and the Legislature shall discourage their immigration by all the means within its power. Asiatic coolieism is a form of human slavery, and is forever prohibited in this State, and all contracts for coolie labor shall be void. All companies or corporations, whether formed in this country or any foreign country, for the importation of such labor, shall be subject to such penalties as the Legislature may prescribe. The Legislature shall delegate all necessary power to the incorporated cities and towns of this State for the removal of Chinese without the limits of such cities and towns, or for their location within prescribed portions of those limits, and it shall also provide the necessary legislation to prohibit the introduction into this State of Chinese after the adoption of this Constitution. This section shall be enforced by appropriate legislation.

## ARTICLE XX.

### MISCELLANEOUS SUBJECTS.

SECTION 1. The City of Sacramento is hereby declared to be the seat of government of this State, and shall so remain until changed by law; but no law changing the seat of government shall be valid or binding unless the same be approved and ratified by a majority of the qualified electors of the State voting therefor at a general State election, under such regulations and provisions as the Legislature, by a two-thirds vote of each House, may provide, submitting the question of change to the people.

SEC. 2. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.

SEC. 3. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of —, according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification for any office or public trust.

SEC. 4. All officers or Commissioners whose election or appointment is not provided for by this Constitution, and all officers or Commissioners whose offices or duties may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

SEC. 5. The fiscal year shall commence on the first day of July.

SEC. 6. Suits may be brought against the State in such manner and in such Courts as shall be directed by law.

SEC. 7. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

SEC. 8. All property, real and personal, owned by either husband or wife before marriage, and that acquired by either of them afterwards by gift, devise, or descent, shall be their separate property.

SEC. 9. No perpetuities shall be allowed except for eleemosynary purposes.

SEC. 10. Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 11. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 12. Absence from this State, on business of the State or of the United States, shall not affect the question of residence of any person.

SEC. 13. A plurality of the votes given at any election shall constitute a choice, where not otherwise directed in this Constitution.

SEC. 14. The Legislature shall provide, by law, for the maintenance and efficiency of a State Board of Health.

SEC. 15. Mechanics, material men, artisans, and laborers of every class, shall have a lien upon the property upon which they have bestowed labor or furnished material for the value of such labor done and material furnished; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens.

SEC. 16. When the term of any officer or Commissioner is not provided for in this Constitution, the term of such officer or Commissioner may be declared by law; and, if not so declared, such officer or Commissioner shall hold his position as such officer or Commissioner during the pleasure of the authority making the appointment; but in no case shall such term exceed four years.

SEC. 17. Eight hours shall constitute a legal day's work on all public work.

SEC. 18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

SEC. 19. Nothing in this Constitution shall prevent the Legislature from providing, by law, for the payment of the expenses of the Convention framing this Constitution, including the per diem of the Delegates for the full term thereof.

SEC. 20. Elections of the officers provided for by this Constitution, except at the election in the year eighteen hundred and seventy-nine, shall be held on the even numbered years next before the expiration of their respective terms. The terms of such officers shall commence on the first Monday after the first day of January next following their election.

## ARTICLE XXI.

### BOUNDARY.

SECTION 1. The boundary of the State of California shall be as follows: Commencing at the point of intersection of the forty-

second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line, in a south-easterly direction, to the River Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May thirtieth, one thousand eight hundred and forty-eight; thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a north-westerly direction and following the direction of the Pacific Coast to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also, including all the islands, harbors, and bays along and adjacent to the coast.

## ARTICLE XXII.

### SCHEDULE.

That no inconvenience may arise from the alterations and amendments in the Constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

SECTION 1. That all laws in force at the adoption of this Constitution, not inconsistent therewith, shall remain in full force and effect until altered or repealed by the Legislature; and all rights, actions, prosecutions, claims, and contracts of the State, counties, individuals, or bodies corporate, not inconsistent therewith, shall continue to be as valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon the adoption thereof, except that all laws which are inconsistent with such provisions of this Constitution as require legislation to enforce them shall remain in full force until the first day of July, eighteen hundred and eighty, unless sooner altered or repealed by the Legislature.

SEC. 2. That all recognizances, obligations, and all other instruments entered into or executed before the adoption of this Constitution, to this State, or to any subdivision thereof, or any municipality herein, and all fines, taxes, penalties, and forfeitures due or owing to this State, or any subdivision or municipality thereof, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments or informations which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this Constitution.

SEC. 3. All Courts now existing, save Justices' and Police Courts, are hereby abolished; and all records, books, papers, and proceedings from such Courts, as are abolished by this Constitution, shall be transferred on the first day of January, eighteen hundred and eighty, to the Courts provided for in this Constitution; and the Courts to which the same are thus transferred shall have the same power and jurisdiction over them as if they had been in the first instance commenced, filed, or lodged therein.

SEC. 4. The Superintendent of Printing of the State of California shall, at least thirty days before the first Wednesday in May, A. D. eighteen hundred and seventy-nine, cause to be printed at the State Printing Office, in pamphlet form, simply stitched, as many copies of this Constitution as there are registered voters in this State, and mail one copy thereof to the post-office address of each registered voter; *provided*, any copies not called for ten days after reaching their delivery office, shall be subject to general distribution by the several Post-masters of the State. The Governor shall issue his proclamation, giving notice of the election for the adoption or rejection of this Constitution, at least thirty days before the said first Wednesday of May, eighteen hundred and seventy-nine, and the Boards of Supervisors of the several counties shall cause said proclamation to be made public in their respective counties, and general notice of said election to be given at least fifteen days next before said election.

SEC. 5. The Superintendent of Printing of the State of California shall, at least twenty days before said election, cause to be printed and delivered to the Clerk of each county in this State five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "For the new Constitution." He shall likewise cause to be so printed and delivered to said Clerks five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "Against the new Constitution." The Secretary of State is hereby authorized and required to furnish the Superintendent of State Printing a sufficient quantity of legal ballot paper, now on hand, to carry out the provisions of this section.

SEC. 6. The Clerks of the several counties in the State shall, at least five days before said election, cause to be delivered to the Inspectors of Elections, at each election precinct or polling place in their respective counties, suitable registers, poll-books, forms of return, and an equal number of the aforesaid ballots, which number, in the aggregate, must be ten times greater than the number of voters in the said election precincts or polling places. The returns of the number of votes cast at the Presidential election in the year eighteen hundred and seventy-six shall serve as a basis of calculation for this and the preceding section; *provided*, that the duties in this and the preceding section imposed upon the Clerk of the respective counties shall, in the City and County of San Francisco, be performed by the Registrar of Voters for said city and county.

SEC. 7. Every citizen of the United States, entitled by law to vote for members of the Assembly in this State, shall be entitled to vote for the adoption or rejection of this Constitution.

SEC. 8. The officers of the several counties of this State, whose duty it is, under the law, to receive and canvass the returns from the several precincts of their respective counties, as well as of the City and County of San Francisco, shall meet at the usual places of meeting for such purposes on the first Monday after said election. If, at the time of meeting, the returns from each precinct in the county in which the polls were opened have been received, the Board must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from time to time until all the returns are received, or until the second Monday after said election, when they shall proceed to make out returns of

the votes cast for and against the new Constitution; and the proceedings of said Boards shall be the same as those prescribed for like Boards in the case of an election for Governor. Upon the completion of said canvass and returns, the said Board shall immediately certify the same, in the usual form, to the Governor of the State of California.

SEC. 9. The Governor of the State of California shall, as soon as the returns of said election shall be received by him, or within thirty days after said election, in the presence and with the assistance of the Controller, Treasurer, and Secretary of State, open and compute all the returns received of votes cast for and against the new Constitution. If, by such examination and computation, it is ascertained that a majority of the whole number of votes cast at such election is in favor of such new Constitution, the Executive of this State shall, by his proclamation, declare such new Constitution to be the Constitution of the State of California, and that it shall take effect and be in force on the days hereinafter specified.

SEC. 10. In order that future elections in this State shall conform to the requirements of this Constitution, the terms of all officers elected at the first election under the same shall be, respectively, one year shorter than the terms as fixed by law or by this Constitution; and the successors of all such officers shall be elected at the last election before the expiration of the terms as in this section provided. The first officers chosen, after the adoption of this Constitution, shall be elected at the time and in the manner now provided by law. Judicial officers and the Superintendent of Public Instruction shall be elected at the time and in the manner that State officers are elected.

SEC. 11. All laws relative to the present judicial system of the State shall be applicable to the judicial system created by this Constitution until changed by legislation.

SEC. 12. This Constitution shall take effect and be in force on and after the fourth day of July, eighteen hundred and seventy-nine, at twelve o'clock meridian, so far as the same relates to the election of all officers, the commencement of their terms of office, and the meeting of the Legislature. In all other respects, and for all other purposes, this Constitution shall take effect on the first day of January, eighteen hundred and eighty, at twelve o'clock meridian.

J. P. HOGE, President.

Attest: EDWIN F. SMITH, Secretary.

A. R. ANDREWS,  
JAMES J. AYERS,  
CLITUS BARBOUR,  
EDWARD BARRY,  
JAMES N. BARTON,  
C. J. BEERSTECHER,  
ISAAC S. BELCHER,  
PETER BELL,  
MARION BIGGS,  
E. T. BLACKMER,  
JOSEPH C. BROWN,  
SAML. B. BURT,  
JOSIAH BOUCHER,  
JAMES CAPLES,  
AUG. H. CHAPMAN,  
J. M. CHARLES,  
JOHN D. CONDON,

C. W. CROSS,  
HAMLET DAVIS,  
JAS. E. DEAN,  
P. T. DOWLING,  
LUKE D. DOYLE,  
W. L. DUDLEY,  
JONATHAN M. DUDLEY,  
PRESLEY DUNLAP,  
JOHN EAGON,  
THOMAS H. ESTEY,  
HENRY EDGERTON,  
M. M. ESTEE,  
EDWARD EVEY,  
J. A. FILCHER,  
SIMON J. FARRELL,  
ABRAHAM CLARK FREEMAN,  
JACOB RICHARD FREUD,

J. B. GARVEY,  
 B. B. GLASSCOCK,  
 JOSEPH C. GORMAN,  
 W. P. GRACE,  
 WILLIAM J. GRAVES,  
 V. A. GREGG,  
 JNO. S. HAGER,  
 JOHN B. HALL,  
 THOMAS HARRISON,  
 JOEL A. HARVEY,  
 T. D. HEISKELL,  
 CONRAD HEROLD,  
 D. W. HERRINGTON,  
 S. G. HILBORN,  
 J. R. W. HITCHCOCK,  
 J. E. HALE,  
 VOLNEY E. HOWARD,  
 SAM A. HOLMES,  
 W. J. HOWARD,  
 WM. PROCTOR HUGHEY,  
 W. F. HUESTIS,  
 G. W. HUNTER,  
 DANIEL INMAN,  
 GEORGE A. JOHNSON,  
 L. F. JONES,  
 PETER J. JOYCE,  
 J. M. KELLEY,  
 JAMES H. KEYES,  
 JOHN J. KENNY,  
 C. R. KLEINE,  
 T. H. LAINE,  
 HENRY LARKIN,  
 R. M. LAMPSON,  
 R. LAVIGNE,  
 H. M. LA RUE,  
 DAVID LEWIS,  
 J. F. LINDOW,  
 JNO. MANSFIELD,  
 EDWARD MARTIN,  
 J. WEST MARTIN,  
 RUSH McCOMAS,  
 JOHN G. McCALLUM,  
 THOMAS McCONNELL,  
 JOHN MCCOY,  
 THOMAS B. McFARLAND,  
 HIRAM MILLS,  
 WM. S. MOFFATT,  
 JOHN FLEMING McNUTT,  
 W. W. MORELAND,  
 L. D. MORSE,  
 JAMES E. MURPHY,  
 EDMUND NASON,

THORWALD KLAUDIUS NELSON,  
 HENRY NEUNABER,  
 CHS. C. O'DONNELL,  
 GEORGE OHLEYER,  
 JAMES O'SULLIVAN,  
 JAMES MARTIN PORTER,  
 WILLIAM H. PROUTY,  
 M. R. C. PULLIAM,  
 CHAS. F. REED,  
 PATRICK REDDY,  
 JNO. M. RHODES,  
 JAS. S. REYNOLDS,  
 HORACE C. ROLFE,  
 CHAS. S. RINGGOLD,  
 JAMES McM. SHAFTER,  
 GEO. W. SCHELL,  
 J. SCHOMP,  
 RUFUS SHOEMAKER,  
 E. O. SMITH,  
 BENJ. SHURTLEFF,  
 GEO. VENABLE SMITH,  
 H. W. SMITH,  
 JOHN C. STEDMAN,  
 E. P. SOULE,  
 D. C. STEVENSON,  
 GEO. STEELE,  
 CHAS. V. STUART,  
 W. J. SWEASEY,  
 CHARLES SWENSON,  
 R. S. SWING,  
 D. S. TERRY,  
 S. B. THOMPSON,  
 F. O. TOWNSEND,  
 W. J. TINNIN,  
 DANIEL TUTTLE,  
 P. B. TULLY,  
 H. K. TURNER,  
 A. P. VACQUEREL,  
 WALTER VAN DYKE,  
 WM. VAN VOORHIES,  
 HUGH WALKER,  
 JNO. WALKER,  
 BYRON WATERS,  
 JOSEPH R. WELLER,  
 J. V. WEBSTER,  
 JOHN P. WEST,  
 PATRICK M. WELLIN,  
 JOHN T. WICKES,  
 WM. F. WHITE,  
 H. C. WILSON,  
 JOS. W. WINANS,  
 N. G. WYATT.

## TO THE PEOPLE OF THE STATE OF CALIFORNIA.

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As your Delegates, elected to revise the present Constitution and to frame a new Constitution, it is fitting that we should state in brief the most important changes proposed, and some of the reasons therefor.

Our present Constitution has been in force for nearly thirty years, during which time our population, wealth, and varied interests have greatly augmented. However wise and judicious when adopted, it has now become wholly inadequate to subserv the present and future necessities of the people without material modifications and restrictions. To secure an efficient and economical administration of the several departments of our government, a new Constitution is an imperative necessity.

It is not probable that a Constitution could be framed that would be entirely satisfactory to any one man in the State. Each would find in it something that he would exclude, and would insert something it does not contain. Our work should however be judged as a whole, and if better than the old Constitution it should be adopted. For many years the people of this State have been oppressed by the onerous burdens laid upon them for the support of the government, and by the many acts of special legislation permitted and practiced under the present Constitution. Its provisions have been so construed by the Courts as to shift the great burden of taxation from the wealthy and non-producing class to the laborers and producers.

The presence of large and increasing numbers of an alien and non-assimilating race in our midst which threatens by competition to enslave our laborers, and by contamination to degrade our civilization, renders it necessary that the whole power of the State should be exercised to protect its citizens and prevent, as far as possible, the further immigration of Chinese.

The only restriction upon a Legislature is the Constitution of the State and of the United States. It, therefore, becomes necessary that State Constitutions should contain many regulations and restrictions, which must necessarily be enlarged and extended from time to time to meet the growing demands of the sovereign people.

### DECLARATION OF RIGHTS.

The principal changes in this article are as follows:

In reference to the grand jury, it is provided that offenses heretofore required to be prosecuted by indictment may be prosecuted by information, after examination and commitment by a Magistrate. This change dispenses with the necessity of drawing and summoning a grand jury to act upon every case before a party accused can be put on trial, and will be a great saving of expense to the various counties of the State. But to guard against possible abuse or favoritism on the part of the prosecuting officer, and for the purpose of investigating the conduct of officials and supervising the management of county affairs, a grand jury is required to be drawn and

summoned at least once a year in each county. The practice of prosecuting by information instead of by indictment has been adopted in several of the States, and found to work well.

In respect to the trial jury, it is provided that in civil actions three-fourths of the jury may render a verdict. This change from the old common law practice has also been tried elsewhere with satisfactory results.

In criminal cases not amounting to felony a jury may be waived, and in like cases, as well as in civil actions, the jury may consist of a less number than twelve if the parties so agree.

The only change made in the section relating to freedom of speech and the press is, that in prosecutions for libel for publication in a newspaper the trial is required to be had in the county where the paper has its publication office, or where the party alleged to be libeled at the time resided, subject to be changed for cause.

The provision limiting the exercise of the right of eminent domain has been amended so as the better to protect the rights of the citizen in the possession and enjoyment of his property. A new section has been added, declaring against monopolies, to the effect that no special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the Legislature; nor shall any citizen or class of citizens be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.

#### RIGHTS OF SUFFRAGE.

It is provided that no native of China shall enjoy the elective franchise in this State. This amendment is intended to guard against a possible change in the naturalization laws so as to admit Chinese to citizenship, and it was necessary to exclude all natives of China in order to avoid the prohibition contained in the fifteenth amendment to the Constitution of the United States against abridging the right of citizens of the United States to vote on account of race or color. This completely closes the door against Chinese ever becoming entitled to vote in this State.

#### LEGISLATIVE DEPARTMENT.

The changes under this head are important. While securing equal if not greater efficiency in this department of the government, the amendments proposed will do much towards purifying the public service, and will reduce the expenses of the State from fifty to one hundred thousand dollars annually. It is provided for the meeting of the Legislature on the first Monday after the first day of January, thus doing away with the holiday recess.

The power of the Legislature has been restricted in every case where it would be safe to do so, in respect to the enacting of local or special laws. In view of these changes, and of the further fact that the Legislature heretofore have spent more than half their time in recesses and on local measures, we have shortened the regular sessions to sixty days. To prevent the heretofore dangerous practice of rushing through bad bills during the last hours of the session, and in the midst of excitement, it is provided that no bill shall be introduced during the last ten days of the session without the consent of two-thirds of the members. The qualifications of members of either

House are three years' residence in the State and one year in the district represented. In apportioning population for representation, Chinese are excluded. The pay of members is not to exceed eight dollars a day—the mileage, ten cents per mile, and the contingent expenses not exceeding twenty-five dollars. No pay is allowed to members during a recess or adjournment for more than three days. It is further provided that no bill shall become a law until printed and read at length on three several days, and shall have received a majority on an aye and no vote of all the members elected to each House. The Governor is given ten days after the adjournment of the Legislature to consider and sign or reject bills, and is also given power to veto any item of an appropriation bill without invalidating the whole bill. This is a provision of incalculable importance. The power of the Legislature to appropriate money for any purpose besides the support of the State government, and institutions exclusively under the control of the State, is prohibited, except in the case of certain worthy charities.

Sales of shares of the capital stock of any corporation on margin are declared void, and the Legislature is directed to regulate or prohibit stock gambling. The Legislature is prohibited from giving or lending the credit of the State, or of any county, city, or other political subdivision of the State; also, from making or authorizing the making of any gift, grant, or subsidy to any person, corporation, or association. Lobbying, or the acceptance of a reward, when in the service of the public, is declared a felony. No person is eligible to the office of Governor who has not been a citizen of the United States and a resident of this State five years. When convened in extra session, the Legislature is limited to the legislation specified in the proclamation convening it.

The Lieutenant-Governor is disqualified from holding any office except as specially provided during his term.

The salaries of the State officers are considerably reduced. For the first two terms the salary of the Governor is six thousand dollars per annum; that of the Lieutenant-Governor the same per diem as is received by the Speaker of the Assembly, to be allowed only during the session of the Legislature; and that of each of the other State officers three thousand dollars per annum, in full for all services. And it is provided that they shall not receive any other fees or perquisites for the performance of any official duty. After the first two terms the Legislature may reduce, but cannot increase, the above named compensation.

No Clerk in any office shall receive a salary exceeding sixteen hundred dollars per annum.

The Legislature may, in its discretion, abolish the office of Surveyor-General. The Governor shall not, during his term of office, be elected a Senator to the Senate of the United States. No convict, who has been twice convicted of felony, shall be pardoned, unless upon the written recommendation of a majority of the Judges of the Supreme Court.

#### JUDICIAL DEPARTMENT.

The Supreme Court consists of a Chief Justice and six Associate Justices, elected for twelve years. The Court may sit in departments as well as in bank, and shall be always open for the transaction of

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business. The plan of permitting the Court to sit in departments is new, and is intended to augment the working capacity of the Court. The increasing business devolved upon our Court of last resort renders it necessary to provide some relief; and the system proposed was adopted instead of creating intermediate Appellate Courts, as being more economical and better adapted to the speedy determination of causes, as well as giving more time for the thorough consideration of the same. The jurisdiction of the Supreme Court, thus constituted, is substantially the same as in the old Constitution; but all decisions are required to be in writing, and the reasons therefor to be stated.

The Superior Court takes the place of the District, County, and Probate Court, and the Criminal Courts in the City and County of San Francisco, except the Police Courts; and its jurisdiction includes substantially the same as all other Courts thus superseded.

The number of Judges to each Superior Court, in the larger counties and in the City and County of San Francisco, is proportional to the amount of judicial business to be transacted, with power given to the Legislature to increase or diminish this number as circumstances may require. Wherever there is more than one Judge to a Court in a county, the coördinate power given to the Judges will enable the same number to dispatch more business than under the present system, where each Judge is confined to his own Court.

The salary of the Superior Court Judges is paid, one-half by the State and one-half by their respective counties. Inasmuch as these Judges take the place of the District Courts, which are State Courts, and the County Courts, and which are now paid by the State and counties respectively, the expense of the new system to the State and counties will aggregate about the same as the one superseded, but much greater judicial force and facility for the dispatch of business is secured. It will also give to each county a Court of general jurisdiction, open at all times for the transaction of business, thereby, as it were, without delay, bringing justice home to every man's door.

In order to remedy a growing evil in the delay of Courts in deciding causes, it is provided that, before drawing their salary, the Justices of the Supreme Court and Judges of the Superior Courts shall be required to severally file an affidavit that no case remains undecided in their Courts which has been submitted for ninety days.

#### EDUCATION.

The changes in this article are not numerous, but they are important. It is provided that two or more counties may, by authority of the Legislature, unite and form one district, and elect one Superintendent of Schools for such district. It is made mandatory upon the Legislature to provide for a system of free schools, which must be maintained for at least six months in each year.

The public school system is for the first time clearly defined so as to include all public schools, thus bringing them entirely under the control of the school authorities; and it is provided that the entire fund furnished by the State shall be used exclusively for the support of primary and grammar schools. The text-book question has been taken from the Legislature and placed under the control of local authorities. The examination of teachers and the granting of certificates has been placed under the same control. The appropriation of public money for the support of any sectarian or denomina-

tional school, or for the support of any school not under the exclusive control of public school officers, has been prohibited. The University is, as far as possible, removed from the influence of politics, but it is made the duty of the Legislature to enforce compliance with the terms of its endowment, while the entire revenue derived from the Agricultural College grant is to be used exclusively for the support of at least one College of Agriculture and the Mechanic Arts. The responsibility of the State in regard to that fund is clearly recognized in the Constitution. No person can hereafter be refused admission to any of its collegiate departments on account of sex.

#### STATE INSTITUTIONS.

It is provided for the appointment of five Prison Directors, to hold office for ten years, without compensation, except necessary expenses while in the discharge of official duty. They have charge and superintendence of the State Prisons, and appoint the executive officer and Clerk of the same. It has been shown that in reference to our Insane Asylums, the management of which has generally been unexceptionable, a good class of men can be secured to fill the office of directors without salary. It is believed that this change will remove the management of our State Prisons from the domain of party politics. After January first, eighteen hundred and eighty-two, the letting out of convicts, under contract, is to cease, and they are to be worked for the benefit of the State.

#### CITY, COUNTY, AND TOWNSHIP ORGANIZATIONS.

In this article a new system of local self-government has been established. It provides that county seats shall not be removed unless two-thirds of the electors voting on the proposition shall vote in favor of such removal. A county cannot be reduced in population to less than eight thousand by the formation of a new county. A new county cannot be formed containing a population less than five thousand. The Legislature is directed to establish a system of county governments which shall be uniform throughout the State, and by general laws to provide for township organizations. Cities and towns may become incorporated under general laws, whenever a majority of the electors voting at a general election may so determine. City and county governments may be consolidated into one municipal government. Any city of one hundred thousand inhabitants may form a charter for its own government, consistent with and subject to the Constitution and laws of the State; but such charter, when ratified by the people, must be submitted to the Legislature for approval, and may be amended at intervals of not less than two years. Any county, city, town, or township may make and enforce within its limits all necessary police, sanitary, and other regulations not in conflict with general laws. The making of profit out of county, city, or town, or other public moneys, or using the same for any purpose not authorized by law, is declared to be a felony. Counties, cities, towns, townships, Boards of Education, and school districts are prohibited from incurring any indebtedness or liability for any purpose exceeding, in any one year, the revenues provided for them respectively for such year, without the assent of two-thirds of the voters thereof, voting at an election held for that purpose.

Under this head many restrictions demanded by the advancing ideas of the times have been provided for. The provisions of the existing Constitution respecting banks and banking have been retained, excepting the constantly violated restriction of such institutions to the deposit of gold and silver, and they are forbidden to issue paper to circulate as money. For the better protection of creditors and stockholders of corporations and joint-stock associations the directors and trustees are made liable for the embezzlement and misappropriation of funds by the officers. It provides for annulling all unused charters, claims of franchises, and special privileges.

The Legislature has been prohibited from extending charters, or remitting forfeitures, and from authorizing any collusive alienation or leasing of franchises or property of corporations. The right of eminent domain, as to the franchises and property of all corporations, has been preserved. They have been prohibited from engaging in business, other than authorized in their charter; from holding real estate, other than that required for their business, longer than five years, and from making fictitious increase of their capital stock. The right of representation to all shareholders has been secured, and the formation of coöperative societies for agricultural, mechanical, and manufacturing purposes has been authorized. Provisions to secure the better management of corporations in this State have been made, and many other checks and guarantees have been provided for which cannot, for want of space, be more fully specified here, and to which we invite the attention of the voter.

The subject of railroad and other transportation companies has become of overshadowing importance. The Convention adopted the provisions to be found in a majority of modern Constitutions, declaring railroad and other transportation companies common carriers, and subject to legislative control; granting the right to intersect and connect, and requiring the receipt and transport of passengers and freight without delay or discrimination; forbidding contracts between the companies and their officers; forbidding pooling, or combinations of earnings for the purpose of monopoly; preventing the increase of railroad rates that have been reduced for purposes of competition, and prohibiting discriminations in charges or facilities for transportation. The right of the State to control the operations of railroad and other transportation companies, and to establish and regulate their rates of charges, have been established by the highest judicial authority. It is necessary to determine how that right shall be exercised to secure the best interest of all concerned. Convinced by the uniform experience of older communities that satisfactory regulation cannot be accomplished by the Legislature through general laws, a Constitutional Commission is proposed, composed of three, to be elected in districts, with power to regulate and establish rates, and to supervise the operation of railroad and other transportation companies of the State.

The incidental powers necessary to make this power effectual, such as the authority to examine books, take testimony, issue subpoenas and other process, hear and determine complaints, apply to the Courts for the enforcement of their decisions and the correction of abuses, etc., are also conferred, and the Legislature is authorized to supply omission. The right of action of any individual is not

affected. For incompetency or malfeasance, the Legislature is authorized to remove any Commissioner by a two-third vote. This plan is submitted with confidence in its efficiency.

#### REVENUE AND TAXATION.

In the existing Constitution there is no definition of property. In the new Constitution property is defined. It includes moneys, credits, bonds, stocks, dues, franchises, and all other matters and things capable of private ownership, real, personal, and mixed.

This definition is comprehensive, and includes every species of property, which is to be taxed according to its value.

The effect of this provision will be very important, as it will bring upon the assessment roll an immense amount of property in the hands of the wealthy which now escapes taxation under the decision of the Supreme Court. The only property exempted from taxation is growing crops, public property, and property exempt under the laws of the United States.

The taxation of mortgages is provided for in this way, viz.: The owner of the land is to pay the tax on its value, deducting the value of the mortgage. The owner of the mortgage is to pay the tax on the value of his mortgage. This is on the principle that a man shall pay taxes on what he is worth, and on the same principle if there is no mortgage, but simply a note or credit. The Legislature is authorized to permit the holder to deduct his debts, if they are due to residents of this State. This deduction can be made from unsecured credits only.

If any contract is made by which a debtor is to pay the tax on any money loaned, the contract is void as to the interest to be paid, and also as to the tax.

Another very important provision is that land and the improvements shall be separately assessed, and cultivated and uncultivated land of the same quality and similarly situated shall be assessed at the same value. The effect of this provision will be that extensive landed proprietors, unless they choose to pay the increased tax, will have to cultivate their lands or dispose of them to some one who will.

Another important provision is that the Legislature shall require each taxpayer, annually, to deliver a statement, under oath, to the County Assessor, of all the property owned by him, on the first Monday of March. This will prevent the fraudulent transfer of property in order to escape taxation.

The Legislature is empowered to establish an income tax. But this is only permissive, and is intended to reach incomes derived from property not otherwise reached by taxation, such as foreign corporations, gas companies, and the like. The Legislature is required to pass all laws necessary to carry out the different provisions, and is empowered also to provide for the payment of taxes on real estate by installments. State and county Boards of Equalization have been created in order to equalize the assessment of property between the counties and individuals.

#### WATER AND WATER RIGHTS.

The peculiarities of our climate, its extreme wet and dry seasons, the extensive influence of water on mining, agriculture, manufac-

tures, and domestic uses, thereby controlling nearly every avenue to wealth, and the additional fact of the control of nearly all the available water of the State by individuals and corporations, necessitated the adoption of stringent provisions for the use and control of water. So far as the public has an interest in such use, it is provided that when water is offered for sale or hire to the public it shall become a public use, and be regulated by general laws. In cities and towns it is compulsory on the Boards of Supervisors, or other governing bodies, to fix, annually, the price for which water shall be sold to the cities or towns and the inhabitants thereof, and enforce such regulations by suitable penalties.

#### HARBORS, TIDE-WATER, AND NAVIGABLE STREAMS.

Many of the landings and wharves being now monopolized by a few persons, under private ownership, and a disposition being manifest on the part of the owners to practice extortion upon the public, it is provided that no individual or corporation shall deny the public a right of way over their wharves and landings; and that the Legislature shall enact such laws as will give a liberal construction in favor of the public. It is also provided that tide lands, fronting on navigable waters, be withheld from grant or sale.

#### FUTURE AMENDMENTS.

Under the existing Constitution, a proposed amendment must pass the Legislature at two sessions before being submitted to the people. It is provided that amendments passed by a two-thirds vote of both branches of the Legislature shall be submitted at the next general election; and if two or more are submitted at the same time they shall be voted on separately.

A Convention called to revise the Constitution may submit its work to the people in such manner as the Convention may determine, thus giving it power to submit articles separately if desirable.

#### CHINESE.

The subject-matter of this article is entirely new, and its appearance in the proposed Constitution arises from the peculiarity of our situation. The article authorizes the use of the whole police power of the State to abate what no argument is necessary to prove is a nuisance—that is, the presence and influx of the Chinese. Their presence is declared to be dangerous, and the Legislature is directed to discourage their immigration by all the means within its power; to pass laws to prohibit their introduction into the State, and to delegate all necessary power to incorporated cities and towns to remove them without their limits. Their employment on public works is prohibited, and all corporations are forbidden to employ them. These provisions are rendered the more necessary in view of the fact that the Federal Government has refused to grant us any relief from this overshadowing evil.

#### MISCELLANEOUS SUBJECTS.

Under this head the following provisions, among others, are made in the new Constitution:

The Capital is to remain at the City of Sacramento until changed by a majority vote of the people, under such rules and regulations as the Legislature, by a two-thirds vote of each House, may provide.

Every person is disqualified from holding any office of profit or trust who shall be convicted of having given or offered any bribe to procure his election or appointment. Laws must also be passed prohibiting persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crime from the right of suffrage, serving on juries, or holding any office. Mechanics, artisans, laborers, and material men shall have a lien for the value of their labor or material upon the property upon which they have bestowed their labor, or for which they have furnished material.

The elections have been transferred from the odd to the even-numbered years, and judicial officers are to be elected at the same time other officers are elected. Where, within four years, we have heretofore held from four to six elections—counting State, judicial, county, and congressional—it is now proposed to have but two.

The State officers are to be elected on the even-numbered years between the Presidential elections, so that State politics will not be mixed up or overshadowed by national. The expense of elections will thereby be very greatly reduced.

#### CONCLUSION.

In conclusion, we submit the result of our labor to you for your approval or rejection. Considering the climate, situation, and extent of our State, and the many, varied, and almost irreconcilable interests of our people, our task has not been an easy one. We have endeavored to remain faithful to our trust—to uphold the rights of the people at all times, feeling that of them we were a part, to them we were responsible, and that they must finally pass upon the conclusions reached by us.

It remains with you to determine whether you shall continue under the old régime or approve the organic law we herewith submit to you.

SACRAMENTO, March 3d, 1879.



